

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 4

2023

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An Analysis of Robbery and Dacoity with reference to Judicial Interpretation

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ABSTRACT

This research paper delves into the legal concepts of robbery and dacoity within the framework of the Indian Penal Code. It provides a comprehensive exploration of the definitions, essential ingredients, and distinguishing characteristics of these criminal offenses. The paper also delves into the intricate relationships between robbery, theft, and extortion, highlighting the conditions under which theft evolves into robbery. It further investigates the occurrence of murder in the context of dacoity, discussing the legal implications and consequences.

Through a meticulous analysis of various case laws and illustrative examples, the paper elucidates the key elements that differentiate robbery from dacoity. It examines landmark judgments to demonstrate how the law has evolved over time in response to different scenarios involving these offenses. The research scrutinizes the punishments prescribed for robbery and dacoity, considering variations based on specific circumstances and timeframes.

The study highlights the significance of understanding the legal nuances and distinctions between these offenses to ensure just and equitable legal outcomes. By employing a doctrinal research methodology and drawing on existing laws, articles, journals, and case laws, the paper offers a comprehensive examination of the topics at hand.

Ultimately, the research aims to contribute to a deeper comprehension of robbery and dacoity in legal contexts, shedding light on the intricate interpretations and applications of the law.

Keywords: Robbery, Dacoity.

I. INTRODUCTION

The crime of robbery is generally defined by the statute of modern American and English law. The most commonly used definitions are of two types. The first is based on older English common law, whereas the second is based on the American Law Institute's Model Penal Code.

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The terms like robbery, theft and extortion are clearly defined in Section 390. Robbery, theft, and extortion are all extremely similar concepts that are frequently used interchangeably on a daily basis.

Robbery in common language means to deprive a person of his or her property. In all robbery there is either theft or extortion. The essence of the offence of robbery is that the offender, for committing theft or for carrying away or attempting to carry away the looted property, voluntarily causes or attempts to cause death, or hurt or wrongful restraint.

“Robbery is defined by the Black’s Law Dictionary as the felonious act of taking the personal property in the possession of another from his person or immediate presence against his will accomplished using force and fear, with an intention of permanently depriving the true owner of the thing in question.”²

The essential ingredients of Robbery are:

- There must have been theft as defined in Section 378;
- the act of theft must have been committed by the offender causing or attempting to cause fear of death, hurt, or wrongful restraint or fear of instant death, instant hurt, or instant wrongful restraint; and
- There must have been extortion as defined in Section 383 and the offender must have been in the presence of the person and subsequently put the person in fear of instant death, instant hurt, or instant wrongful restraint

In the case of “State of Maharashtra vs. Joseph Mingel”³ 1997(1) BOM CRLJ 362, the court held that All of the requirements must be present in order to show robbery by stealing, and even if one is missing, the accused cannot be charged for robbery.

(A) Dacoity:

When five or more than five persons commit or attempt to commit a robbery that is known as dacoity.

It's a more aggravated form of robbery, and the robber is usually armed with dangerous weapons. The number of participants is the only difference between robbery and dacoity.

“It states that when five or more people commit or attempt to commit a robbery at the same time, or when the total number of people committing or attempting to commit a robbery, as well

² Black, H. and Black, H., n.d. *Black's law dictionary*.

³ *The State Of Maharashtra vs Joseph Mingel Koli And Ors*, 1997 (1) BomCR 362

as those present and aiding in the commission or attempt, is five or more, each person committing, attempting, or aiding in the commission or attempt is said to commit dacoity.”⁴

(B) Essential Ingredients of Dacoity:

In order to commit dacoity, there are 3 essentials which must be there.

These essentials are:

- There should be at least five or more than five persons;
- They should conjointly commit or attempt to commit dacoity;
- They should have dishonest intention.

In the landmark case of “Laliya v state of Rajasthan it was observed that whether the murder is a part of dacoity or not, it totally depends on the circumstances of that time.”⁵ In this case the court has decided to consider

- Whether the dacoits retreated or not, and whether or not the murder occurred while they were retreating?
- How long does it take for a murder attempt to turn into a case of dacoity?
- What is the distance between the locations where the murder and dacoity attempts were made?

In the case of “⁶Shyam Behari v. State of Uttar Pradesh”, when the victim have caught the dacoit associating in robbery the dacoit killed one of the victims. Any murder committed by the dacoits during their struggle would be classified as murder, therefore the robber was found guilty under Section 396 of the Indian Penal Code

(C) Research Objectives

- The objective of my research is to give a brief overview on the specific topics Robbery and Dacoity.
- To let the readers understand the difference between both Dacoity and Robbery through illustrations and case laws
- To discuss various specific instances in both Robbery and Dacoity
- To discuss how is robbery treated in different cases

⁴ iPleaders. 2019. *Elaboration on Robbery and Dacoity Under Indian Penal Code, 1890*. [online] Available at: <<https://blog.ipleaders.in/robbery-and-dacoity/>> [Accessed 15 November 2021].

⁵ Laliya And Ors. vs State Of Rajasthan, 1967 CriLJ 818

⁶ Shyam Behari vs State Of U.P , (1998) 2 UPLBEC 1397

(D) Research Methodology

The method used for this research is doctrinal in nature. The idea of referring and analyzing the existing data such as laws and facts connote a doctrinal research. The researcher believes that the present research is majorly done taking into consideration of the existing laws and further the landmark judgements on how the law has evolved over the years. Therefore to perform an effective research on such topic, it is best suggested to prefer a doctrinal research and analyze various relevant laws in place. The researcher has made use of many articles, journals and present laws to complete this research work.

(E) Research Questions

1. What are the essential ingredients to be treated as Robbery and Dacoity?
2. How is Robbery treated in case of Theft
3. How is Dacoity treated in case of Murder
4. Why is preparation of murder not punishable while preparation for dacoity a punishable offence?
5. What are different occasions in case of theft
6. What is extortion and How will extortion become robbery.

(F) Literature Review

In the book, "Armed Robbery: Cops, Robbers, and victims"⁷ the author(s) discusses the characteristics of the crime in the United States and Canada while taking into consideration the factors responsible for the Armed Robbery. The author in his book has collected and illustrated data on psychological, physical, and economic impact of armed robbery, as well as characteristics of the crime. The book as well delineates on how the police, court and correctional system responses to armed robbery. In the end of the book the authors finally suggests measures and preventions for armed robbery.

1. Crime In India⁸

This paper deals with a comparative study on Robbery and dacoity. This research paper has been in Analytical and descriptive method to resolved into elements and constituent parts not only that but also the structure of the issues has been classified. The paper discusses on how robbery and dacoity were treated in past and the paper also mentions how it has evolved over

⁷ Gabor, T., 1987. *Armed robbery*. Springfield, Ill.: Thomas.

⁸ 2019. *Crime in India*. [ebook] New Delhi: National Crime Records Bureau, p.518. Available at: <<https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf>> [Accessed 15 November 2021].

the years through change of law and amendments. The paper has conducted an comparison of both robbery as well dacoity and has provided few suggestions to be established at state level and national level.

2. A Study On Analysis Of Major Crimes In Tiruchirappalli City⁹

In the researcher paper conducted by International Journal of Social Science and Economic Research on the study of major crimes in the city of Tiruchirappalli. The research has come to an estimation that Robbery has been highest recorded with 71.8%. The researcher has collected data from the commissioners office of Tiruchirappalli city from the year 2012-2017 and analysed the major crime. From the analysis of data the research concluded that in some areas of city robbery has declined progressively whereas in some other areas it has showed increase in statistics. The study can be a great help for the police and society to focus on how to reduce the major crime rate to establish law and order in the city. One drawback of the research conducted was the lack of solution on how to proceed further as it was just statistics provided and based on the crimes rates but the main criteria of what can be done hasnt been discussed. *International Journal of Social Science and Economic Research*, 2018.

II. PUNISHMENT FOR ROBBERY AND DACOITY

Robbery is punishable under “Section 392 of the Indian Penal Code of 1860. Any individual who commits robbery is subject to a sentence of rigorous imprisonment, which may be prolonged up to 10 years, as well as a fine under this section.”¹⁰

- If the robbery occurs on the roadway between sunset and sunrise, the sentence may be extended to 14 years imprisonment.

The Supreme Court held that, given the close proximity of the time between the alleged murder and the discovery of the body and the articles recovered from the accused's possession, a presumption can be drawn not only that they were in possession of stolen articles after committing robbery but also that they were involved in the murder of the deceased. Therefore, conviction of the accused persons was under Section 302 and 392.

In the case of “Sikander Kumar vs. State,”¹¹ the prosecution claimed that the two appellants pointed a knife at the complainant, stole Rs. 50/-, and fled in the complainant's vehicle. The accused were detained the next day in Nakabandi in the presence of the complainant. One of

⁹ . *International Journal of Social Science and Economic Research*, 2018. A STUDY ON ANALYSIS OF MAJOR CRIMES IN TIRUCHIRAPPALLI CITY. 03(10), p.10

¹⁰ Section 392 in The Indian Penal Code

¹¹ Sikander Kumar vs State on 20 March, 1998 IIIAD Delhi 450, 1998 CriLJ 3026, 1998 (3) Crimes 69, 72 (1998) DLT 547, 1998 (45) DRJ 360

the independent witnesses became hostile. Sikander Kumar and the other defendants were sentenced by the trial court. The conviction was overturned on appeal by the Delhi High Court, which stated that the entire prosecution storey was intrinsically unlikely and unbelievable. As one independent witness turned hostile, it would be risky to establish a conviction solely on the testimony of the complainant.

The circumstances of the case in “Ezhil vs. State of Tamil Nadu were that the accused were charged with violating Sections 364, 392 and 302 of the Indian Penal Code, as well as Sections 34 and 120 B.”¹²

The Supreme Court held that based on the proximity of time between when the murder was supposed to be committed and when the body was discovered and the articles recovered from the accused's possession, a presumption can be drawn not only that they were in possession of stolen articles after committing robbery but also that they were involved in the murder of the deceased. “As a result, the accused people' convictions under Sections 302 and 392 read with Section 34 were proper.”

“Section 393 of the Indian Penal Code defines the punishment for an attempt to commit robbery. The punishment for this is imprisonment for up to 7 years and also liable for fine.”¹³

In case of “Dacoity the punishment is defined under Section 395 of the IPC, as per the section any person who commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which can be extended to ten years, and shall also be liable to pay the fine. This offence is cognizable, non-bailable, and non-compoundable in nature.”¹⁴

“Sadhu Singh and Others vs. The State,”¹⁵ Four and one kurda Singh were involved in the dacoity in this instance. They were all armed to the teeth with rifles and handguns.

They broke into Gharsiram's residence and robbed him. Gharsiram, Jugalkishore, Sandal, and Jugalkisore were all injured. In one example, the dacoits attempted to steal a wristwatch and a scarf from one person, but because they were peasants, they were unable to take anything with them. When the dacoits began fleeing the villagers, they were pursued by the villagers, who responded by setting fire to them. As a consequence, dharma, one of the villagers, died, but one of the dacoits was captured by the villagers. “The dacoits in this case were charlatans. In this case, the dacoits were charged under Section 395 of the Indian Penal Code.”

¹² Ezhil & Ors. Appellants vs State Of Tamil Nadu

¹³ Section 393 of the Indian Penal Code.

¹⁴ Section 395 of the Indian Penal Code.

¹⁵ The State vs Sadhu Singh And Ors, 1972 WLN 677

III. THEFT IN CASE OF ROBBERY

(A) Robbery:

As per section 390 of Indian Penal Code, “Robbery.—In all robbery, there is either theft or extortion. When theft is robbery.—Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint. When extortion is robbery.—Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted”¹⁶

In order that theft may constitute robbery, the prosecution has to establish—

- (a) if in order to the committing of theft; or
- (b) in committing the theft; or
- (c) in carrying away or attempting to carry away property obtained by theft;
- (d) the offender for that end i.e. any of the ends contemplated by (a) to (c);
- (e) voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant wrongful restraint.

In other words, theft would only be robbery if for any of the ends mentioned in (a) to (c) the offender voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant wrongful restraint. If the ends does not fall within (a) to (c) but, the offender still causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant wrongful restraint, the offence would not be robbery. That (a) or (b) or (c) have to be read conjunctively with (d) and (e). It is only when (a) or (b) or (c) co-exist with (d) and (e) or there is a nexus between any of them and (d), (e) would amount to robbery;

kinds of evidence generally available in robbery or dacoity.

¹⁶ Indiantkanoon.org. 2021. Section 390 in The Indian Penal Code. [online] Available at: <<https://indiantkanoon.org/doc/1905008/>> [Accessed 11 November 2021].

First occasion, when the offenders are caught red-handed on the spot by the villagers. It is somewhat difficult in majority dacoities. The reason is that the villagers or residents do not wear the weapons. The accused wear deadly weapons and attack the complainants with courage and pre-plan.

Second occasion, when the wrong-doers are arrested in some other cases and they disclose their previous offences during the interrogation and investigation by the police in other cases.

Third occasion, arises when the offender or offenders sell the stolen property after dacoity in another place. Such property and those accused are red-handedly caught.

The State vs Sadhu Singh and Ors.

The four defendants, as well as one Kurda Singh, five in total, perpetrated a dacoity at Gharsiram's house, in which they injured Gharsiram Jugalkishore, Basantilal, and Sandal with deadly weapons such as a rifle and a pistol. They also took Santlal's wristwatch and scarf, but because there was a commotion that drew the attention of the locals who gathered at the scene, the dacoits were unable to take any booty with them. However, the villagers gave the dacoits a vigorous chase while they were escaping, and in order to have a safe retreat, one of the dacoits is reported to have fired a shot as a result.¹⁷

IV. DACOITY IN CASE OF MURDER

“Section 396 of IPC states that if any one of five or more than five persons, who are conjointly committing dacoity, commits murder in so committing dacoity”¹⁸, everyone

The ingredients of Section 396 are:

- The offence of dacoity must be committed with the joint act of the accused persons;
- Murder must be committed in course of the commission of the dacoity.

If one of the five or more people committing robbery commits murder while committing dacoity, everyone of them will be held liable for the murder, even if some of them were not involved in the murder. It is not essential to prove whether the murder was committed by a single individual or by all of them under Section 396 of the IPC. It's also not required to show that everyone had the same goal in mind. The prosecution merely needs to show that the murder occurred while the dacoity was being committed. If the prosecution successfully shows that the

¹⁷ *The State vs Sadhu Singh and Ors, 1972 WLN 677*

¹⁸ Section 396 of IPC.

murder was committed while dacoity was being practised, all members of the group would be charged under Section 396 of the IPC.

Usually, intention no matter how evil is not punishable. One of the reasons behind is that, it is very difficult to prove what someone's intention was in the court until he actually commits the crime. However in some exceptional cases, intention becomes liable to be proven in the court and thus is punishable even though no Actus Reus is there. Preparation to commit murder is not punishable because it can never be adequately proven in the court that the preparation was made with an intention to commit murder. When it finally reaches the stage it can be proven, it already becomes an attempt.

“Arjun Ganpat Sandbhor vs state of Maharashtra”¹⁹

In this case, a truck driver was killed and the truck was taken away by the dacoits. This incident took place in darkness. The evidence of the son of the deceased, who was in the truck at the time when the accident took place was not free from doubt. He admitted at that time that he used to have forgetting tendency. Test identification parade was not held according to guidelines prescribed under Criminal Manual. In the view of the totality of the evidence the accused was entitled to acquittal.

“Md Imamuddin & Anr. vs. State of Bihar”²⁰

In this case, the plea was to reduce the punishment for dacoity. Some of them were accused to commit dacoity in a running train. They were sentenced to undergo rigorous imprisonment for seven years and two years for respective offences. “The accused remained in custody for a substantial amount of time, about 50 per cent of the punishment.” Their punishment was reduced to half and which they have already passed the time in imprisonment.

V. WHEN EXTORTION BECOMES ROBBERY AND WHEN THEFT BECOMES ROBBERY

“When extortion is robbery.—Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.”²¹

Explanation.—The offender is said to be present if he is sufficiently near to put the other person

¹⁹ Arjun Ganpat Sandbhor vs The State Of Maharashtra

²⁰ Md. Imamuddin @ Fudiya & Ors vs State Of Bihar

²¹ Section 390 Of IPC.

in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying "Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

(A) Theft in case of robbery

Theft is robbery when in order to commit theft or while committing theft, or while carrying away or attempting to carry away property obtained by theft, the offender voluntarily causes or attempts to cause to any person death, subject him/her to wrongful restraint or cause hurt or induce fear of instant death, instant wrongful restraint or causing instant hurt.

Thus, theft becomes robbery when the following conditions are satisfied;

- When the offender voluntarily causes or attempts to cause:
 - Death, wrongful restraint or hurt or
 - Fear of instant death, instant wrongful restraint or instant hurt.
- And the above act(s) is done
 - While committing the theft
 - To commit the theft
 - While carrying away the property obtained by theft or
 - While attempting to carry away property obtained by theft.

VI. CONCLUSION

The research paper in detail describes about Robbery and Dacoity in different scenarios using various case laws and examples. The researches main focus was on how law is interpreted while dealing with different substantial situation. The major issues discussed where the clear differentiation between both Robbery and Dacoity. Followed by the punishments laid down in each offence committed and late the researcher has elucidated on how to deal with specific matters in both Robbery as well Dacoity while keeping in mind the recent cases and most occurred in scenarios. The researcher has individually discussed on how should the case be treated in dacoity in case of murder and what are the various provisions which will come into notice in case of murder in dacoity. As well the order explains on how Robbery is treated in different case like during Extortion with special emphasis of examples and case laws. Same way the researcher has discussed on what is the connection between theft and robbery and how are they different from each other, Perhaps the role played by theft in the occurrence of robbery.

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