



DACOITY – BNS

S- 310. Dacoity (Gang robbery)

ESSENTIAL INGREDIENTS

Dacoity is an **aggravated form of robbery** committed by **5** or more persons.

1. 5 or more persons **act conjointly**;
2. Such act must be **robbery or attempt** to commit robbery:

The **5** persons must **consist** of those who are present and **assists other** in doing the crime.

Guiding principle – Court

- Imminent fear of death is sufficient to attract the offence of dacoity.
- In dacoity, every member of the gang is punished, irrespective of whether he takes active part or not. (either active or passive)
- The word '**conjointly**' means uniform intention along with unified or united or concerted action. In most of dacoities, the robbers would be acting with a **common object** to loot with use of violence.

Imminent fear of death is sufficient

In ***Shyam Behari Vs. State of U.P.***, AIR 1957 SC 320, the accused had entered the house with the intention of committing robbery. However, they failed in their attempt because of the hue and cry raised by the residents. All the residents of the village and the neighboring village arrived at the scene. The accused along with his companions ran away from the house without collecting

the booty. On the contrary, if the victims do not offer resistance and no force or violence is used, this does not reduce the offence of dacoity to theft.

When five or more persons, attempt to commit robbery but **without any success** in either carrying away or getting away with the booty because of stiff opposition. Even in such case punishment will be given under Section 395 of the IPC.(Now section **310 of BNS**)

In ***Suryamoorthi Vs. Govindaswamy***, AIR 1989 SC.1410, it has been observed that the imminent fear of death, hurt, etc., will be sufficient to bring the section into operation. Where several persons attacked a house and took away property, but the inmates obtaining information beforehand fled before the attack, it was held that the fact that inmates were running away was sufficient proof of the fear of hurt or wrongful restraint and the accused were guilty of dacoity.

Conviction for 1 or 2 persons

In ***Raj Kumar Vs. State of Uttaranchal*** (2008) 11 SCC 709, it has been reiterated by the apex court that for commission of offence of dacoity a minimum of five persons is an essential ingredient. The court in this case also observed that:

In a given case, however, it may happen that there may be five or more persons and the factum of five or more persons is either not disputed or is clearly established, but the court may not be able to record a finding as to identify all the persons said to have committed the dacoity and may not be able to convict them and order their acquittal observing that their identity is not established. In such a case, **conviction of less than five persons or even one can stand**. But in the absence of such a finding, less than five persons cannot be convicted for an offence of dacoity.

OTHER PROVISIONS OF DACOITY

310(2). Punishment for dacoity

310(3). Dacoity with murder [Committed during transaction of dacoity]

310(4). Making preparation to commit dacoity

310(5). Assembling for purpose of committing dacoity

311. Robbery or dacoity, with attempt to cause death or grievous hurt.

This section provides for a minimum sentence of seven years if in commission of dacoity or robbery, the offender:

- Uses any deadly weapon; or
- Causes grievous hurt to any person; or
- Attempts to cause death or grievous hurt to any person.

Deadly weapon

In ***Ashfaq Vs. State*** (Govt. of NCT of Delhi) AIR 2004 SC 1253, it has been held that if the weapon carried by the offender is well within the vision of the victim and sufficient enough to create terror in his mind, it is sufficient to satisfy the requirement of **use of deadly weapon**. It is not necessary to show further that any hurt was caused by the use of weapon.

Only one among 'offender' using Firearm or deadly weapon would alone be liable

Ram ratan Vs. state of M.P., AIR 2022 SC 518, The case emphasises that the Commission of an offence under section 397 of the IPC (Now Section **311 of BNS**) does not require the act use of a weapon, such as firing a firearm or stabbing with a knife or dagger. Instead, the mere exhibition, brandishing, or openly holding the weapon to threaten and instill fear in the victim's mind is sufficient for the offense. Furthermore, if multiple individuals are accused of

committing the offense and only one among them used a deadly weapon, only that specific offender would be liable under section 397 IPC. (Now Section **311 of BNS**)

Robbery (Sec 309)		Dacoity (Sec 310)	
1	Robbery is an aggravated form of theft or extortion, wherein there is fear of death, (grievous) hurt, or wrongful restraint.	1	Dacoity is an advanced form of robbery wherein at least 5 perpetrators are involved conjointly in its commission.
2	Robbery is only punishable in the last two stages of crime, viz., attempt and accomplishment.	2	Dacoity is punishable for any stages of crime. i.e preparation to commit a dacoity.
3	The minimum number of perpetrator(s) is one .	3	There must be 5 or more perpetrators.
4	Robbery is relatively less grave than dacoity.	4	Dacoity is a graver and more heinous offence than robbery and is an aggravated form of robbery.
5	Robbery may or may not involve the use of weapons .	5	Dacoity specifically demands that the perpetrators possess and use deadly weapons.
6	Although robbery also causes harm to victims, it may not have as significant impact on society as dacoity does.	6	Dacoity can greatly affect society by creating fear and insecurity among the public.