# IPC Section 391

## Indian Penal Code Section 391: Dacoity  
  
Section 391 of the Indian Penal Code (IPC) defines the offense of dacoity. Dacoity is essentially robbery committed by five or more people. This element of collective criminality distinguishes dacoity from robbery and elevates it to a more serious offense due to the increased potential for violence and intimidation. This detailed analysis will explore the various facets of Section 391, including its ingredients, essential elements, related sections, potential defenses, and relevant case laws.  
  
\*\*I. The Text of Section 391:\*\*  
  
"Dacoity.—When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit “dacoity”.  
  
  
\*\*II. Ingredients of Section 391:\*\*  
  
1. \*\*Robbery or Attempted Robbery:\*\* The foundation of dacoity is the commission or attempted commission of robbery, as defined under Section 390 of the IPC. All elements of robbery, whether based on theft or extortion, must be present or attempted.  
  
2. \*\*Five or More Persons:\*\* The distinguishing feature of dacoity is the involvement of five or more individuals. This includes both those directly committing or attempting to commit the robbery and those present and aiding the commission or attempt.  
  
3. \*\*Conjoint Action:\*\* The five or more individuals must act "conjointly" – together or in concert – in the commission or attempted commission of the robbery. Mere presence at the scene of a robbery committed by others does not constitute dacoity unless there is evidence of active participation or assistance.  
  
4. \*\*Presence and Aiding:\*\* The section includes individuals who are present at the scene and aid the commission or attempt, even if they do not directly participate in the act of robbery itself. This could include providing support, encouragement, or acting as lookouts.  
  
  
\*\*III. Distinction between Robbery and Dacoity:\*\*  
  
The key difference lies in the number of people involved. Robbery can be committed by a single person or a group of fewer than five. Dacoity, by definition, requires the involvement of five or more individuals acting conjointly. This difference reflects the enhanced threat posed by a group of offenders acting together and justifies the harsher penalties for dacoity.  
  
\*\*IV. Related Sections:\*\*  
  
\* \*\*Section 390 (Robbery):\*\* Defines the offense of robbery, which forms the basis of dacoity.  
\* \*\*Section 392 (Punishment for robbery):\*\* Prescribes the punishment for robbery.  
\* \*\*Section 395 (Punishment for dacoity):\*\* Prescribes the punishment for dacoity.  
\* \*\*Section 396 (Dacoity with murder):\*\* Deals with dacoity where murder is committed.  
\* \*\*Section 397 (Robbery, or dacoity, with attempt to cause death or grievous hurt):\*\* Covers both robbery and dacoity involving attempts to cause death or grievous hurt.  
\* \*\*Section 398 (Attempt to commit robbery or dacoity when armed with deadly weapon):\*\* Addresses attempts to commit robbery or dacoity while armed with a deadly weapon.  
\* \*\*Section 400 (Punishment for belonging to gang of dacoits):\*\* Deals with the offense of belonging to a gang of dacoits.  
\* \*\*Section 402 (Assembling for purpose of committing dacoity):\*\* Addresses assembling for the purpose of committing dacoity.  
\* \*\*Section 149 (Every member of unlawful assembly guilty of offence committed in prosecution of common object):\*\* This section can be invoked in dacoity cases where the group constitutes an unlawful assembly and the dacoity is committed in prosecution of their common object.  
  
\*\*V. Essential Elements for Prosecution:\*\*  
  
To secure a conviction for dacoity, the prosecution must prove the following elements beyond a reasonable doubt:  
  
1. A robbery or attempted robbery was committed.  
2. Five or more persons were involved.  
3. These persons acted conjointly in the commission or attempted commission of the robbery.  
4. The accused was one of the persons who committed, attempted, or aided the robbery.  
  
\*\*VI. Defenses against Section 391:\*\*  
  
Several defenses can be raised against a charge of dacoity:  
  
1. \*\*No robbery or attempted robbery:\*\* The accused might argue that the essential elements of robbery were not present, and therefore, the offense could not be dacoity.  
2. \*\*Fewer than five persons involved:\*\* The defense could challenge the prosecution's claim that five or more people were involved in the act. This could involve challenging the identification of the participants or arguing that some individuals were merely present and not actively involved.  
3. \*\*Lack of conjoint action:\*\* The accused could argue that they were merely present at the scene and did not act conjointly with the others in committing or attempting the robbery.  
4. \*\*No participation or aiding:\*\* Even if five or more people were present, the accused might argue they neither participated in the robbery nor aided its commission. They might claim they were innocent bystanders.  
5. \*\*Mistake of fact:\*\* The accused could claim they acted under a genuine and reasonable mistake of fact that negated the criminal intent. For instance, they might claim they believed they were participating in a lawful activity and were unaware of the robbery.  
6. \*\*Duress:\*\* The accused might argue they were forced to participate in the dacoity under duress. However, this defense is often difficult to establish, particularly in cases involving serious offenses like dacoity.  
7. \*\*Alibi:\*\* The accused might claim they were somewhere else at the time of the dacoity.  
  
\*\*VII. Relevant Case Laws:\*\*  
  
A significant body of case law has developed around Section 391, addressing various aspects of the offense. These precedents offer guidance on issues such as the meaning of "conjoint action," the level of participation required to be considered "aiding," and the evidentiary requirements for establishing the presence of five or more persons. Consulting relevant case law is crucial for applying Section 391 accurately in specific factual scenarios.  
  
  
\*\*VIII. Dacoity and Unlawful Assembly:\*\*  
  
Dacoity often involves an unlawful assembly, as defined under Section 141 of the IPC. When a group of five or more persons assembles with a common object of committing robbery and then proceeds to commit the robbery, they can be charged with both dacoity and participation in an unlawful assembly. Section 149 of the IPC holds every member of an unlawful assembly responsible for any offense committed in prosecution of the common object. Therefore, even those members who did not directly participate in the robbery can be held liable for dacoity if it was committed in furtherance of the common object of the unlawful assembly.  
  
\*\*IX. Sentencing Considerations:\*\*  
  
Dacoity is a serious offense, and the punishment under Section 395 can be rigorous imprisonment for up to ten years, extendable to life imprisonment, and a fine. The severity of the sentence will depend on factors such as the degree of violence used during the dacoity, the nature of the property stolen, and the criminal history of the accused.  
  
  
\*\*X. Conclusion:\*\*  
  
Section 391 of the IPC defines dacoity, a grave offense that involves the collective commission of robbery by five or more persons. Understanding the ingredients, essential elements, related sections, potential defenses, and relevant case law is vital for both the prosecution and defense in dacoity cases. This detailed analysis provides a comprehensive overview of Section 391 and its implications. However, it is always recommended to consult with a legal professional for specific legal advice related to individual cases and circumstances.