# IPC Section 396

## Section 396 of the Indian Penal Code: Dacoity with Murder  
  
Section 396 of the Indian Penal Code (IPC) deals with the aggravated form of dacoity where murder is committed during the course of the robbery. It prescribes a stringent punishment, reflecting the gravity of the combined offences of dacoity and murder. This section incorporates the elements of both dacoity (defined under Section 391) and culpable homicide (defined under Section 299), making it a compound offence with severe repercussions.  
  
\*\*Understanding the Elements of Section 396:\*\*  
  
To establish an offence under Section 396, the prosecution must prove the following elements beyond reasonable doubt:  
  
1. \*\*Dacoity:\*\* The core element of this section is the commission of dacoity. Dacoity itself is a complex offence with specific requirements as defined in Section 391. These requirements are:  
  
 \* \*\*Five or More Persons:\*\* There must be at least five persons involved in committing the robbery. This threshold differentiates dacoity from robbery (Section 392), which can be committed by a single person or a smaller group.  
 \* \*\*Common Intention:\*\* All five or more individuals must share a common intention to commit robbery. This means they must have a pre-arranged plan or understanding to commit the robbery together. Mere presence at the scene is insufficient; their participation and shared intent are crucial.  
 \* \*\*Commitment of Robbery:\*\* The group must actually commit robbery, which involves the dishonest taking of property from another person’s possession using force or putting that person in fear of immediate injury.  
  
2. \*\*Murder during Dacoity:\*\* The second crucial element is the commission of murder during the course of the dacoity. This implies a causal connection between the dacoity and the murder. The murder can be committed:  
  
 \* \*\*In the course of committing the dacoity:\*\* This covers the period from the commencement of the dacoitous act to its completion. It encompasses the entire duration of the robbery, including the escape phase.  
 \* \*\*In order to commit the dacoity:\*\* This implies that the murder was committed as a necessary step towards achieving the objective of robbery. For example, killing a guard to gain access to a vault.  
 \* \*\*In order to facilitate the escape of any dacoit:\*\* This means the murder was committed to aid the escape of any member of the dacoit group, even after the robbery has been completed. For example, killing a pursuing police officer or a witness who could identify the dacoits.  
 \* \*\*In order to retain any property taken in the dacoity:\*\* This refers to situations where murder is committed to protect the stolen property after the dacoity has taken place. For example, killing someone who tries to recover the stolen goods.  
  
3. \*\*Culpable Homicide amounting to Murder:\*\* The killing must qualify as culpable homicide amounting to murder under Section 299. This means the act causing death must be:  
  
 \* \*\*With the intention of causing death:\*\* The offender must have intended to kill the victim.  
 \* \*\*With the intention of causing such bodily injury as is likely to cause death:\*\* The offender intended to inflict a specific injury, knowing that such injury is likely to result in death.  
 \* \*\*With the knowledge that the act is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and without any excuse for incurring the risk of causing death or such injury:\*\* The offender knew their actions were extremely dangerous and highly likely to cause death or grievous injury, but acted recklessly without any justifiable reason.  
  
  
\*\*Distinguishing Section 396 from Other Related Sections:\*\*  
  
\* \*\*Section 392 (Robbery):\*\* Robbery, unlike dacoity, does not require five or more persons. Section 396 specifically requires the commission of dacoity as a prerequisite.  
\* \*\*Section 302 (Murder):\*\* While Section 396 involves murder, it is a specific offence related to dacoity. A simple murder, not committed during a dacoity, would fall under Section 302.  
\* \*\*Section 397 (Robbery or dacoity, with attempt to cause death or grievous hurt):\*\* Section 397 deals with robbery or dacoity where an attempt is made to cause death or grievous hurt. Section 396 requires the actual commission of murder, not just an attempt.  
\* \*\*Section 398 (Attempt to commit robbery or dacoity when armed with deadly weapon):\*\* This section focuses on the attempt to commit robbery or dacoity while possessing a deadly weapon, irrespective of whether any hurt or death occurs.  
  
  
\*\*Punishment under Section 396:\*\*  
  
The punishment for dacoity with murder under Section 396 is death or imprisonment for life, and also fine. The severity of the punishment reflects the seriousness of the crime, which combines the dangers of dacoity with the ultimate violation of human life. The courts have discretion to impose either the death penalty or life imprisonment, considering the facts and circumstances of each case.  
  
  
\*\*Evidentiary Considerations:\*\*  
  
Proving an offence under Section 396 requires robust evidence. This can include:  
  
\* \*\*Eyewitness Testimony:\*\* Accounts from individuals who witnessed the dacoity and the murder.  
\* \*\*Forensic Evidence:\*\* Physical evidence such as fingerprints, DNA, weapons used, and other traces linking the accused to the crime scene.  
\* \*\*Circumstantial Evidence:\*\* Indirect evidence that, when taken together, points towards the guilt of the accused.  
\* \*\*Confessional Statements:\*\* Admissions made by the accused, although these must be carefully scrutinized and corroborated with other evidence.  
  
  
\*\*Conclusion:\*\*  
  
Section 396 of the IPC addresses the grave crime of dacoity with murder. It requires proof of both dacoity as defined under Section 391 and culpable homicide amounting to murder as defined under Section 299. The specific requirement of five or more persons acting with a common intention to commit robbery distinguishes it from other offences like robbery and murder. The prescribed punishment of death or life imprisonment underscores the severity of this offence and the legislature's intention to deter such heinous crimes. The successful prosecution of cases under this section necessitates meticulous investigation, thorough evidence gathering, and careful legal analysis to ensure justice is served.