# IPC Section 397

## Section 397 of the Indian Penal Code: Robbery, or Dacoity, with Attempt to Cause Death or Grievous Hurt  
  
Section 397 of the Indian Penal Code (IPC) addresses the aggravated forms of robbery and dacoity where an attempt is made to cause death or grievous hurt. It recognizes the heightened danger posed by such acts and prescribes a more severe punishment than simple robbery or dacoity. This section sits between the offences of robbery/dacoity and robbery/dacoity with murder (Section 396), reflecting the escalating severity of violence involved.  
  
\*\*Understanding the Elements of Section 397:\*\*  
  
To establish an offence under Section 397, the prosecution must prove the following elements beyond reasonable doubt:  
  
1. \*\*Commission of Robbery or Dacoity:\*\* The foundation of this offence lies in the commission of either robbery (defined under Section 392) or dacoity (defined under Section 391).  
  
 \* \*\*Robbery (Section 392):\*\* Robbery involves the dishonest taking of property from another person’s possession using force or putting that person in fear of immediate injury. It can be committed by a single person or a group.  
  
 \* \*\*Dacoity (Section 391):\*\* Dacoity is a specific form of robbery committed by five or more persons acting with a common intention. The threshold of five or more individuals distinguishes it from robbery.  
  
2. \*\*Attempt to Cause Death or Grievous Hurt:\*\* The second crucial element is the attempt to cause death or grievous hurt during the commission of robbery or dacoity. This requires demonstrating both the intent and the act towards causing such harm.  
  
 \* \*\*Attempt:\*\* An attempt implies an intention to commit an offence and an act towards its commission that goes beyond mere preparation. The act must be proximate enough to the intended offence, showing a clear progression towards its completion.  
  
 \* \*\*Cause Death:\*\* This refers to the intention to kill the victim. The attempt doesn't need to be successful; the focus is on the intention and the act directed towards causing death.  
  
 \* \*\*Cause Grievous Hurt:\*\* Grievous hurt is defined under Section 320 of the IPC and includes injuries such as emasculation, permanent privation of the sight of either eye, permanent privation of the hearing of either ear, privation of any member or joint, destruction or permanent impairing of the powers of any member or joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth, any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits. The attempt must be directed towards inflicting such grievous hurt.  
  
3. \*\*Connection between Robbery/Dacoity and the Attempt:\*\* There must be a clear nexus between the act of robbery/dacoity and the attempt to cause death or grievous hurt. The attempt must be made:  
  
 \* \*\*During the commission of the robbery/dacoity:\*\* This covers the entire period from the commencement of the robbery/dacoity to its completion, including the escape.  
  
 \* \*\*In order to commit the robbery/dacoity:\*\* This implies that the attempt was made as a necessary step to achieve the objective of robbery/dacoity. For example, attempting to kill a guard to gain access to a vault.  
  
 \* \*\*In order to facilitate the escape of any robber/dacoit:\*\* This refers to situations where the attempt was made to aid the escape of any member of the robber/dacoit group, even after the robbery/dacoity has been completed. For example, attempting to kill a pursuing police officer.  
  
 \* \*\*In order to retain any property taken in the robbery/dacoity:\*\* This covers situations where the attempt is made to protect the stolen property after the robbery/dacoity has taken place. For example, attempting to kill someone who tries to recover the stolen goods.  
  
  
\*\*Distinguishing Section 397 from Other Related Sections:\*\*  
  
\* \*\*Section 392 (Robbery):\*\* Simple robbery does not involve the attempt to cause death or grievous hurt. Section 397 specifically requires this aggravated element.  
  
\* \*\*Section 391 (Dacoity):\*\* Simple dacoity also lacks the element of attempting to cause death or grievous hurt.  
  
\* \*\*Section 396 (Dacoity with Murder):\*\* Section 396 deals with dacoity where murder is actually committed. Section 397 deals with the \*attempt\* to cause death or grievous hurt during robbery or dacoity, not the actual infliction of death.  
  
\* \*\*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, regardless of whether any attempt is made to cause death or grievous hurt. The mere possession of the weapon is the aggravating factor in Section 398.  
  
\* \*\*Sections 307/308 (Attempt to Murder):\*\* While Section 397 involves an attempt to cause death, it is specifically linked to the commission of robbery or dacoity. A simple attempt to murder, unconnected to robbery or dacoity, would fall under Section 307 or 308 depending on the circumstances.  
  
  
\*\*Punishment under Section 397:\*\*  
  
The punishment for an offence under Section 397 is imprisonment for a term which may extend to seven years, and shall also be liable to fine. This is a more severe punishment compared to simple robbery (which can extend up to ten years but doesn't mandate a minimum) or dacoity (which can extend up to ten years and may also include fine).  
  
  
\*\*Evidentiary Considerations:\*\*  
  
Proving an offence under Section 397 requires substantial evidence. This can include:  
  
\* \*\*Eyewitness Testimony:\*\* Accounts from individuals who witnessed the robbery/dacoity and the attempt to cause death or grievous hurt.  
  
\* \*\*Forensic Evidence:\*\* Physical evidence like fingerprints, DNA, weapons used, and injuries sustained by the victim, linking the accused to the crime scene.  
  
\* \*\*Circumstantial Evidence:\*\* Indirect evidence that, when considered collectively, points towards the guilt of the accused.  
  
\* \*\*Confessional Statements:\*\* Admissions made by the accused, though these must be carefully scrutinized and corroborated with independent evidence.  
\* \*\*Recovery of stolen property:\*\* While not essential, recovery of stolen property can help establish the robbery/dacoity element of the crime.  
  
  
\*\*Conclusion:\*\*  
  
Section 397 of the IPC addresses the aggravated offences of robbery and dacoity where an attempt is made to cause death or grievous hurt. The key differentiator is the element of attempting to inflict serious harm during the commission of robbery or dacoity. This section penalizes the increased danger posed by such acts with a punishment of up to seven years imprisonment and a fine. Successful prosecution under this section requires the prosecution to meticulously establish all the elements of the offence, including the commission of robbery or dacoity, the attempt to cause death or grievous hurt, and the connection between the two, supported by credible evidence.