# IPC Section 398

## Section 398 of the Indian Penal Code: Attempt to Commit Robbery or Dacoity When Armed with Deadly Weapon  
  
Section 398 of the Indian Penal Code (IPC) addresses the heightened danger posed by individuals attempting to commit robbery or dacoity while armed with a deadly weapon. This section recognizes that the mere presence of a deadly weapon during such attempts significantly escalates the threat of violence and potential harm, even if no actual violence is used. Consequently, it prescribes a more severe punishment than for simple attempts at robbery or dacoity.  
  
\*\*Understanding the Elements of Section 398:\*\*  
  
To secure a conviction under Section 398, the prosecution must prove the following elements beyond reasonable doubt:  
  
1. \*\*Attempt to Commit Robbery or Dacoity:\*\* The core of this offence is the attempt to commit either robbery (defined in Section 392) or dacoity (defined in Section 391).  
  
 \* \*\*Attempt:\*\* An "attempt" signifies an intention to commit a specific offence and an act performed towards its commission that goes beyond mere preparation. The act must be sufficiently proximate to the intended offence, demonstrating a clear progression towards its completion but falling short of actual commission. It's crucial to distinguish between preparation and attempt; mere planning or gathering resources does not constitute an attempt.  
  
 \* \*\*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 type 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. \*\*Being Armed with a Deadly Weapon:\*\* The second essential element is that the individual attempting robbery or dacoity must be armed with a deadly weapon at the time of the attempt.  
  
 \* \*\*Deadly Weapon:\*\* A "deadly weapon" is any instrument or object that, used in the manner intended or likely to be used, is capable of causing death or grievous hurt. This includes firearms, knives, swords, axes, clubs, and even improvised weapons like stones or broken bottles if used in a way likely to cause death or grievous hurt. The weapon doesn't necessarily have to be used; its mere presence during the attempt is sufficient to trigger Section 398.  
  
 \* \*\*"Armed with":\*\* The interpretation of "armed with" signifies possession and control over the deadly weapon, readily available for use if necessary. It's not merely about having the weapon somewhere on one's person; it requires the weapon to be readily accessible and deployable during the attempted robbery or dacoity.  
  
3. \*\*Nexus between the Attempt and the Weapon:\*\* There must be a clear connection between the attempt to commit robbery/dacoity and the possession of the deadly weapon. The weapon must be possessed for the purpose of facilitating the attempted robbery/dacoity, either by intimidating the victim, overcoming resistance, or facilitating escape.  
  
\*\*Distinguishing Section 398 from Other Related Sections:\*\*  
  
\* \*\*Section 392 (Robbery):\*\* Simple robbery doesn't involve the possession of a deadly weapon during the commission of the offence.  
  
\* \*\*Section 391 (Dacoity):\*\* Simple dacoity also doesn't require the possession of a deadly weapon.  
  
\* \*\*Section 397 (Robbery or Dacoity, with Attempt to Cause Death or Grievous Hurt):\*\* While Section 397 also involves an aggravated form of robbery/dacoity, it focuses on the \*attempt\* to cause death or grievous hurt, irrespective of whether a deadly weapon is used. Section 398, on the other hand, focuses on the \*possession\* of a deadly weapon during the \*attempt\* stage, regardless of whether an attempt to cause death or grievous hurt is made.  
  
\* \*\*Section 396 (Dacoity with Murder):\*\* Section 396 deals with the completed offence of dacoity where murder is committed. Section 398 deals with the \*attempt\* stage of robbery/dacoity.  
  
\* \*\*Section 395 (Dacoity):\*\* While both Sections 395 and 398 deal with dacoity, Section 395 focuses on the completed offence of dacoity itself, regardless of the presence of a deadly weapon. Section 398 specifically targets the attempt stage where a deadly weapon is involved.  
  
  
\*\*Punishment under Section 398:\*\*  
  
The punishment for an offence under Section 398 is imprisonment for a term which may extend to seven years, and shall also be liable to fine. This is a more severe punishment than that for attempts at simple robbery or dacoity.  
  
\*\*Evidentiary Considerations:\*\*  
  
Successfully prosecuting a case under Section 398 requires strong evidence proving all elements of the offence. This can include:  
  
\* \*\*Eyewitness Testimony:\*\* Accounts from individuals who witnessed the attempted robbery/dacoity and the presence of the deadly weapon.  
  
\* \*\*Recovery of the Weapon:\*\* Recovering the deadly weapon and linking it to the accused is crucial evidence.  
  
\* \*\*Forensic Evidence:\*\* Fingerprints or DNA on the weapon can link it to the accused.  
  
\* \*\*Circumstantial Evidence:\*\* Indirect evidence that, taken together, points towards the guilt of the accused, such as the accused being found near the scene of the attempted crime with a deadly weapon shortly after the incident.  
  
\* \*\*Confessional Statements:\*\* Admissions made by the accused, though these must be carefully scrutinized and corroborated with other independent evidence.  
  
  
\*\*Conclusion:\*\*  
  
Section 398 of the IPC addresses the specific danger posed by individuals attempting to commit robbery or dacoity while armed with deadly weapons. The emphasis is on the potential for violence and harm represented by the presence of the weapon, even if it isn't used. The section requires the prosecution to demonstrate the attempt to commit robbery or dacoity, the possession of a deadly weapon, and the connection between the two. The prescribed punishment reflects the gravity of this offence and the legislature's intent to deter such potentially dangerous acts. Successful prosecution hinges on a thorough investigation, meticulous evidence gathering, and robust legal arguments to secure a conviction.