# IPC Section 402

## Section 402 of the Indian Penal Code: Assembling for purpose of committing dacoity  
  
Section 402 of the Indian Penal Code (IPC) deals with the act of assembling for the purpose of committing dacoity. This section complements Section 399 (Making preparation to commit dacoity) by focusing specifically on the act of assembling, which is a crucial stage in the progression towards committing dacoity. While Section 399 criminalizes the act of making preparations, Section 402 targets the very act of gathering with the shared criminal intent of committing dacoity. This allows law enforcement to intervene at an earlier stage, potentially preventing the progression from assembly to preparation and ultimately to the commission of dacoity.  
  
\*\*Understanding the Elements of Section 402:\*\*  
  
To secure a conviction under Section 402, the prosecution must prove the following elements beyond a reasonable doubt:  
  
1. \*\*Five or More Persons:\*\* This threshold aligns with the definition of dacoity (Section 391), which requires the involvement of five or more individuals. This distinguishes dacoity from robbery, which can be committed by a single person or a smaller group.  
  
2. \*\*Assembly:\*\* This element refers to the physical gathering or meeting of five or more persons at a particular place. Mere presence of individuals in the same vicinity without a common purpose does not constitute an assembly within the meaning of this section. The gathering must be intentional and for the shared purpose of committing dacoity.  
  
3. \*\*Purpose of Committing Dacoity:\*\* The prosecution must demonstrate that the individuals assembled with the specific intention of committing dacoity. This requires establishing a shared understanding and agreement among the assembled individuals to engage in the act of dacoity as defined under Section 391. This means their intention must be to commit robbery as a group of five or more persons. While they may not have a concrete plan yet, their shared purpose for assembling must be to commit dacoity. Evidence for this element can include intercepted communications, witness testimony about the purpose of the gathering, and the circumstances surrounding the assembly.  
  
\*\*Distinguishing Section 402 from Other Related Sections:\*\*  
  
\* \*\*Section 391 (Dacoity):\*\* Section 391 defines the completed offense of dacoity. Section 402 deals with the earlier stage of \*assembling\* for the purpose of committing dacoity, before the actual commission of the crime.  
  
\* \*\*Section 399 (Making Preparation to Commit Dacoity):\*\* While both sections aim to prevent dacoity, they target different stages. Section 399 focuses on the act of \*making preparations\*, which involves taking concrete steps towards committing dacoity, such as procuring weapons or conducting reconnaissance. Section 402 focuses on the earlier stage of \*assembling\* with the shared intent to commit dacoity, even before preparations are made.  
  
\* \*\*Section 395 (Punishment for Dacoity):\*\* This section prescribes the punishment for the completed offense of dacoity. Section 402 deals with the preparatory stage of assembling and carries a separate, less severe punishment.  
  
\* \*\*Section 120B (Criminal Conspiracy):\*\* There can be overlap between Section 402 and Section 120B. A broader agreement to commit dacoity might fall under Section 120B, even without a physical assembly. However, if the conspiracy involves the act of assembling for the purpose of committing dacoity, both sections could be applicable. Section 402 specifically targets the act of assembling, while Section 120B focuses on the agreement itself.  
  
\* \*\*Section 141 (Unlawful Assembly):\*\* While an assembly under Section 402 would also likely constitute an unlawful assembly under Section 141, the crucial difference lies in the purpose. Section 141 requires a common object to commit any of the offences listed in that section, while Section 402 specifically requires the purpose to be committing dacoity. If the common object of the assembly is to commit dacoity, then both sections would be applicable.  
  
  
\*\*Punishment under Section 402:\*\*  
  
The punishment for assembling for the purpose of committing dacoity under Section 402 is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.  
  
  
\*\*Evidentiary Considerations:\*\*  
  
Proving an offense under Section 402 requires careful collection and presentation of evidence. This can include:  
  
\* \*\*Surveillance:\*\* Electronic surveillance, such as phone tapping or video recording, can capture conversations and actions that reveal the purpose of the assembly.  
\* \*\*Witness Testimony:\*\* Testimony from informants or undercover officers who infiltrated the group can provide crucial evidence about the purpose of the gathering.  
\* \*\*Circumstantial Evidence:\*\* The location of the assembly, the time of day, the presence of suspicious items, and the prior conduct of the individuals involved can be used as circumstantial evidence of their intent.  
\* \*\*Confessional Statements:\*\* Admissions made by the accused individuals, though these must be carefully scrutinized and corroborated with other independent evidence.  
  
  
\*\*Conclusion:\*\*  
  
Section 402 of the IPC plays a vital role in preventing dacoity by criminalizing the act of assembling for that purpose. It enables law enforcement agencies to intervene at an early stage, potentially disrupting the progression towards the commission of the crime. The section requires proof of the assembly of five or more persons and their shared intention to commit dacoity. The prescribed punishment reflects the seriousness of this preparatory act and the importance of deterring such criminal activity. Successful prosecution under this section requires meticulous investigation, strong evidence gathering, and compelling legal arguments to establish all elements of the offence beyond a reasonable doubt. The effective use of this section can contribute significantly to maintaining public safety and order by preventing the formation and operation of dacoit gangs.