

# Bare Act Revolution



**DACOITY**

# Section 391

## Dacoity



# Bare Act Revolution



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# Section 391

IPC

## 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**.



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# Section 391

IPC

## Dacoity

There's wedding going on. We must go over there and become RICHH 😈

Ok, Let's go!



Give us all the JEWELLERY.

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# Section 391

IPC

Dacoity



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# Section 391

IPC

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# Section 391

IPC

Dacoity

- For **dacoity** the total number of people are **5 or more**.



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# Section 391

IPC

## Dacoity

C'mon HURRY UP! Our car is waiting outside.

What is taking them so LONG!!?



### Is this Robbery or Dacoity?

- In the present case, total number of offenders is 5 i.e. 3 are robbing the bank and 2 are aiding the offenders to flee.
- Hence, the same amounts to dacoity as 5 or more people are committing, attempting or aiding robbery.

#### Quick Recap



- Robbery is an aggravated form of extortion or theft - S. 390
- With an element of fear of instant death or instant hurt or instant wrongful restraint.

**Word of the day**  
Aiding = Helping



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## Category

### Section 378

#### Theft

##### Definition

- Dishonest intention.
- Movable Property.
- Out of possession.
- Without consent.
- Moves that property.

### Section 383

#### Extortion

- Dishonest intention.
- Putting any person into fear.
- Fear of injury to the person so put into fear or any other person.
- Dishonest inducement.
- To deliver.
- Any property (Movable or immovable) or valuable security (S.30) or anything signed or sealed which may be converted into valuable security.

### Section 390

#### Robbery

- Theft + 2 more conditions -
- Voluntarily causing death or hurt or wrongful restraint.
- Fear of instant death or hurt or wrongful restraint.
- Extortion + 3 more conditions -
- Presence of offender.
- Fear of instant death or instant hurt or instant wrongful restraint person.
- Then and there delivery.

### Section 391

#### Dacoity

- 5 or more person.
- Committing robbery.
- Including person present & aiding.

## Category

## Punishment

## Case Law

## Section 378

## Theft

- S.379  
Imprisonment up to 3 years or fine or both.

- K. N. Mehra v. The State Of Rajasthan.  
(1957 AIR 369)
- A temporary retention of property by a person wrongfully gaining thereby is also theft.

## Section 383

## Extortion

- S. 384  
Imprisonment up to 3 years or fine or both.

- Jadunandan Singh v. Emperor.  
(AIR 1941 PAT. 129)
- Thumb impression on paper was given unwillingly due to presence of fear of injury.

## Section 390

## Robbery

- S. 392
- RI up to 10 years +fine.
- Highway Robbery -B/w sunrise & sunset: Up to 14 years.

- Phool Kumar v. Delhi Admn.

- Aggravated robbery: it was held that a person who uses the deadly weapon can only be convicted under Section 397 IPC.

## Section 391

## Dacoity

- S. 395
- Imprisonment for life or Rigorous Imprisonment up to 10 years and fine.

- Shyam Behari v. State of UP.  
(AIR 1957 SC 320)

- The transaction of dacoity had ended the moment the dacoits took to their heels.

## Category

**Consent**

	<b>Section 378</b>	<b>Section 383</b>	<b>Section 390</b>	<b>Section 391</b>
<b>Theft</b>	<ul style="list-style-type: none"> <li>■ W/o Consent</li> </ul>	<ul style="list-style-type: none"> <li>■ Consent is wrongfully obtained</li> </ul>	<ul style="list-style-type: none"> <li>■ Aggravated form of theft and extortion</li> </ul>	<ul style="list-style-type: none"> <li>■ There is either no consent or obtained wrongfully</li> </ul>
<b>Property</b>	<ul style="list-style-type: none"> <li>■ Can be only with respect to movable property.</li> <li>■ Not with respect to immovable property like land</li> </ul>	<ul style="list-style-type: none"> <li>■ Can be with respect to both immovable &amp; movable</li> </ul>	<ul style="list-style-type: none"> <li>■ Can be with respect immovable property if it is a form of extortion and not otherwise.</li> </ul>	<ul style="list-style-type: none"> <li>■ Can be with respect immovable property if it is a form of extortion and not otherwise.</li> </ul>
<b>No. of Offenders</b>	<ul style="list-style-type: none"> <li>■ Can be by one person</li> </ul>	<ul style="list-style-type: none"> <li>■ Can be by one person</li> </ul>	<ul style="list-style-type: none"> <li>■ Can be by one person</li> </ul>	<ul style="list-style-type: none"> <li>■ Requires 5 or more person - present or aiding</li> </ul>

## Category

**Force**

- No force

**Whether there is delivery by victim**

- No

**Element of fear**

- No fear

## Section 378

### Theft

## Section 383

### Extortion

## Section 390

### Robbery

## Section 391

### Dacoity

- Force is accordingly, whether it's theft or extortion.

- No, if theft.  
Yes, if extortion

- Fear of death, hurt or wrongful restraint or
- Fear of instant death, instant hurt or instant wrongful restraint

- No, if theft.  
Yes, if extortion

- Fear of death, hurt or wrongful restraint or
- Fear of instant death, instant hurt or instant wrongful restraint

## Category

## Extra Info

### Section 378

## Theft

- Person may commit theft of his own property if it is not in his possession.
- Because for theft possession is required & not ownership.
- Refer: Illustration j S. 378

### Section 383

## Extortion

- The delivery of the property by the person threatened is necessary.
- The offence of extortion is not complete until delivery of the property by the person put in fear is done.

### Section 390

## Robbery

- The expression "for that end" implies that death, hurt, or wrongful restraint or an instant fear of them is caused directly to complete the act of theft or carrying away the property.

### Section 391

## Dacoity

- On 19 March 1987, a group posing as Central Bureau of Investigation.
- Officers executed a fake income tax investigation raid on the Opera House branch of Tribhovandas Bhimji Zaveri & Sons Jewellers.
- The movie special 26 is based on this heist.

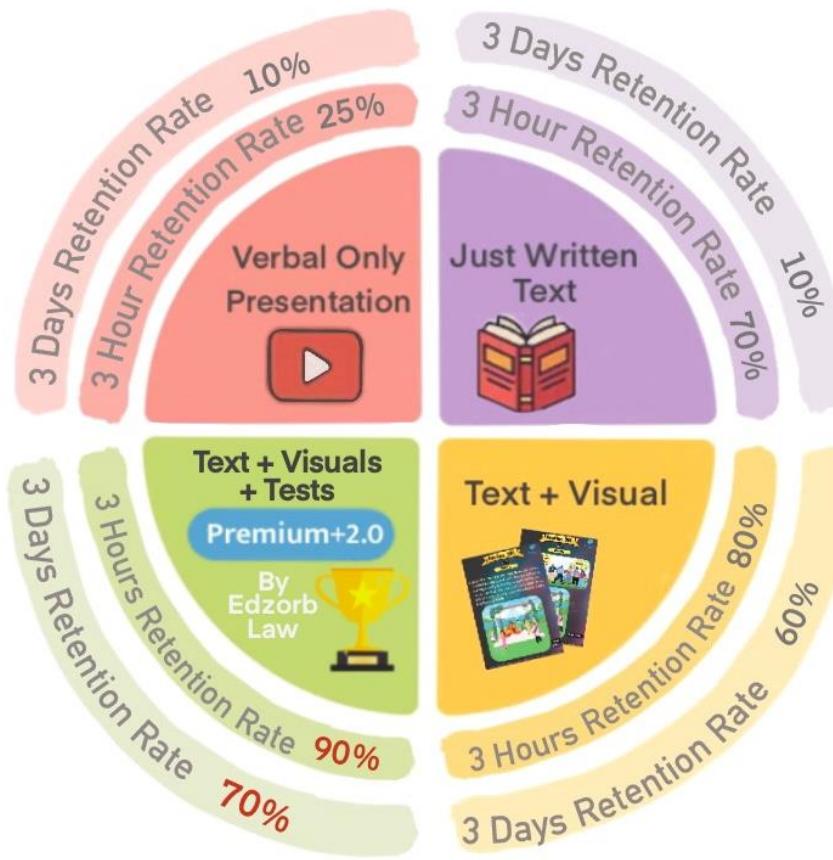


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## Previous Year Prelims Questions

**Q.1)** Which of the following cases amounts to dacoity ?

- a) When five or more persons conjointly commit or attempt to commit a robbery
- b) Where the whole number of persons conjointly committing or attempting to commit a robbery, amount to five or more.
- c) Persons present and aiding such commission or attempt, amount to five or more
- d) All of the above

**Ans:** - D

**Q.2)** The charge is that more than 13 persons were participated in a dacoity and only seven persons were identified and tried before the trial court. The trial court acquitted three of them for want of identity and remaining four were convicted for dacoity can be committed by five or more persons only. Decide

- a) Conviction is proper
- b) Conviction is not proper



c) Conviction is illegal

d) None of the above

**Ans:** - A

**Q.3)** It was alleged that A and Balong with C, D and E had robbed X of his wrist watch and 10 currency notes of Rs. 100/- on 10 April 1977 at 5.00 P.M., while X was standing in front of his shop. All the 5 accused came there in a car and after committing the dacoity ran away in that car. C, D and E were acquitted for want of evidence. A and B were convicted for dacoity. The conviction is

a) Legal

b) Illegal

c) Improper

d) Irregular

**Ans:** - B



**Q.4) Ordinarily preparation to commit an offence is not punishable, But preparation to commit ..... is punishable under section 399 of the Indian Penal Code.**

- a) Robbery
- b) Dacoity
- c) Extortion
- d) All of the above

**Ans: - B**



## **Previous Year Questions**

- Q.1)** Explain the difference between Robbery & Dacoity.  
[RJS 1976, 1986, DJS 2008, UPJS 2013]
- Q.2)** Differentiate between Extortion and Dacoity. [HPJS 2018]
- Q.3)** It is said that in every robbery or dacoity either there is theft or extortion. Explain with the help of cases and illustrations. [UPJS 1999]





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Ques 1

~~\* rule 25  
Conveniens  
maxim  
vigilantibus  
non  
dominibus  
jura subvenient~~

Sec. 21(1) of Code of Civil Procedure provides that, no objection as to place of suing will be allowed by an appellate or revisional court unless following conditions are satisfied:

Court of first instance

1. The objection was taken at first instance in court
2. It was taken at earliest possible opportunity and in cases where issues are settled at or before settlement of issues; and
3. There has been consequent failure of justice

Ques 2.

~~\* provision  
vising  
Art. 169, 335,  
338, 340,  
341 & 342~~

Reservation of posts in government services is a broad and infamous subject. The basis of reservation was always to bring every class of people on equal footing mainly on financial and social aspects. So the basis and limit of reservation should still be the financial status as discrimination on caste and class level has been decreased but financial gap has been increased from past recent years.

\* Indira  
Sathyay  
case  
+ Balaji  
VS  
State of  
Uttar  
Pradesh  
9.

Ques 3

No, a re mandamus order cannot confer jurisdiction on the subordinate court when such court originally do not have such power. It is settled principle that no appellate court can confer jurisdiction on a subordinate court, however high appellate court may be as, jurisdiction of a court is determined by statute. In case of Venkatakrna v Angathayamal it is held that

(1)

2  
3



an appellate court remanding a case to an inferior court cannot confer jurisdiction on court if it inherently lacked the same.

Ques 4

A suit is of civil nature if the principal question therein relates to the determination of a civil right and its enforcement.

It is subject matter of suit which determines whether it is suit of civil nature or not.

In a suit in which right to property or to an office is contested whether it is of civil nature or not, what needs to be determined is whether it entirely depends on religious rites or ceremonies or not?

If its decision does not entirely depends on religious rites or ceremonies it is a suit of civil nature.

(i) Right to take out religious procession is a suit of civil nature

$\frac{115}{3}$

(ii) Right of Pardanashin lady to observe parda is a suit of civil nature

(iii) Right to franchise is a suit of civil nature

Ques 5

Doctrine of res judicata applies between co-defendant only if plaintiff claimed any relief and he cannot get his relief without trying and deciding a case between the co-defendants. However it has been

reiterated that requisite conditions should be fulfilled to apply principle of res judicata as between defendant and that are:



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- 1) There must be conflict of interest between the defendants concerned
- 2) It must be necessary to decide the conflict in order to give the reliefs which plaintiff claims.
- 3) the question between plaintiff & the defendants must have been finally decided.
- 4) the co-defendants were necessary or prospect parties in former suit. (Govindamal by LRs vs Vaidyanathan)

### section 10 CPC

#### Res judicata

- suit <sup>was</sup> finally decided by competent court
- In this a case is heard & finally decided
- Subsequent suit on same subject matter is prohibited
- Objective is to prevent multiple litigation

#### Res judicata

- In this suit is finally heard & decided which cannot be presented further as a suit
- Object is to prohibit multiplicity of litigation
- It is result of judgment of court

#### Res subjudice

- A suit which is pending in a competent court
- In res subjudice, case is pending in court
- Subsequent suit on same subject matter is stayed.
- Objective is prohibition of concurrent jurisdiction

#### No Estoppel

- In this a person cannot be allowed to change his position if he makes another to believe in good faith -
- Its object is to protect right of such person who acts in good faith
- It is based on act of parties

→ Sec 111(1A)  
→ Pickard  
JLS  
Scars

Maxims  
Pemo dicitur nisi proponatur  
b. i. s. Victoria  
Eadem causa  
Pro una est  
Seth Kinsella  
Manusher Lal



Ques 24 (a) Right of private defence of property extend to causing of death

Such right of private defence of property extending to cause death is dealt under Sec 103 of Indian Penal Code. It permits a person to extend its right of private defence to cause death only under certain circumstances as mentioned under the provision of the Code. Such circumstances are

1. When robbery is committed
2. When offence of housebreaking by night is committed
3. When mischief by fire is committed on any building; tent or vessel, which is used as human dwelling or as a place for the custody of property
4. If when theft, mischief or house breaking, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be consequence, if such right of private defence is not exercised.

This right commences as soon as a reasonable apprehension of danger to body arises from an attempt, or threat to commit offence, although offence may not have committed but not until there is that reasonable apprehension. The right last as long as reasonable apprehension exist  
*Prima Martin v. State of Kerala.*

**\* Case law without principal useless**  
**(S. 103)**

## (b) Police officer's report after completing investigation

Police officers submits its report after completing investigation under sec 173 of code of Criminal procedure code. It is stated that every investigation should be completed without unnecessary delay. In case investigation relates to an offence under sec 321, 376 A, 376 B, 376 AB, 376 C, 376 D, 376 DD or 376 E of Indian Penal code it shall be completed within 2 months which shall be calculated from date of information was recorded by officer in charge of police station.

Such report shall be forwarded from officer in charge of police station to magistrate empowered to take cognizance of offence under sec 173(2) of IPC. Such report shall be in format or form as prescribed by state government.

It will contain following details

1. Nature of information
2. Name of the parties
3. Name of person acquainted with case
4. Offence which appears to have been committed
5. If so, by whom
6. Whether accused has been arrested
7. Whether released on bond or securities
8. Whether he has been forwarded in custody under sec 170
9. Medical report of a woman.

IPC or  
CrPC ?

## Remarks:-

- ① Answer not in Answer format rather in notes format.
- ② Don't copy things from Internet.  
The answer on Internal & External aid are exact copy.
- ③ Missed out or left of Questions.
- ④ Next time copies won't be evaluated if they are not in Answer format.
- ⑤ Always mention the section no. on top (not at last).





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