



ROBBERY - BNS

309. ROBBERY [AGGRAVATED FORM OF THEFT OR EXTORTION]

ESSENTIAL INGREDIENTS ;

Robbery is a special and aggravated form of either theft or extortion. The chief distinguishing element in robbery is the **presence of imminent fear of violence**.

"**In all robbery there is either theft or extortion.**" Therefore, for the offence of robbery, it is essential that all the elements that constitute either theft or extortion must be present.

In both theft and extortion "**dishonest intention**" is essential ingredient that is required, consequently an offence cannot be robbery until and unless it is done "dishonestly"(. **Mens rea** – Dishonest intention.)

When Theft is robbery

Robbery = [Cause death/hurt/WR **or** Cause fear of instant death /hurt/WR + for committing **Theft**]

- ❖ When someone **voluntarily causes** or **attempts to cause** to any person:
 - (a) Death or hurt or wrongful restraint; **or**
 - (b) Fear of instant death or instant hurt or instant wrongful restraint.
- ❖ The above acts must be done in order to the **committing of theft, or** in committing theft, **or** in carrying away, or attempting to carry away property obtained by theft.

When Extortion is robbery

Robbery = [Offender present at the crime scene + Put fear of **instant** death/hurt/WR + for committing extortion -- **immediate** delivery]

- ❖ The offender **is** in the near presence of victim at the time of commission of offence **and**
- ❖ Putting the victim in **fear of instant death**, instant hurt or instant wrongful restraint either for himself or some other person **and**
- ❖ The offender **induces the victim** to deliver the property at that very instant.

Exp — The offender is said to be present if they are close enough to make the victim fear of instant death, instant hurt, or instant wrongful restraint.

Guiding principle – Court

- In order to verify whether a particular act would amount to robbery or not, one has to first establish that the offence has essential ingredients of theft or extortion, **since robbery is nothing but an aggravated form of theft and extortion.**
- If theft is already committed and violence is used to help an offender to escape, theft is not robbery.
- The expression “For that end” clearly means that the hurt caused by the offender must be with the object of facilitating the committing theft.
- An accidental infliction of injury by a thief will not convert his offence into robbery.
- In order to constitute robbery by theft, death, hurt or wrongful restraint or fears of occurrence of such violence instantly, must be caused either before or during; or after committing theft. Hurt independent of theft is not robbery.
- Illustrations (b) & (c) attached to this section are the good example of those cases where **extortion converts into robbery.** The illustration (c)

and (d) mark the distinction between **simple extortion** and extortion which is robbery.

Voluntarily causes

According to Section **2(33)**, "**voluntarily**" A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of **facilitating a robbery** and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has **caused death** voluntarily;

For example, where the accused while cutting a string, by which a basket was tied, with intent to steal it, accidentally cut the wrist of the owner, who at the moment tried to seize and keep the basket and ran away with it. He was held liable for theft and **not for robbery** (*Edward's case*).

For that End

In Harish *Chandra Vs. State of U.P*, AIR 1976 SC 1430, the accused forcibly took away the wrist watch of the victim and the co-accused slapped him and another companion hit him a stick. All were charged for robbery. The Supreme Court said that slapping and hitting has to facilitate the taking away of property so, it would clearly fall within the provision of section 390. (Now section 309 of BNS)

Hurt caused after robbery

In **Harish Chandra Vs. State of U.P.** AIR 1976 1430 appellant forcibly snatched a wrist watch from the victim in a train and he with co-accused was attempting to run away with the watch. When the victim raised an alarm, appellant slapped him and the co-accused hit him with a stick. Appellant argued that the case did not fall under section 390 because when the appellant slapped the victim the watch was already stolen and it could not be said that the hurt was caused to the victim in order to commit the theft, or in committing the theft. However, the Supreme Court rejected this argument on the ground that hurt was caused when the accused were trying to carry away the stolen property and because the victim had raised an alarm, he was slapped so that the accused may be able to carry away the stolen property. Therefore the case was clearly within the purview of s. 390. (Now section 308 of BNS)

Ingredients of Robbery

State of Maharashtra Vs. Joseph Mingel [1997(1) BOM CRLJ 362.] In this case, it was held that in order to establish Robbery by Theft it was essential to **prove all the 5 necessary ingredients** laid down under Section 378 which is said to constitute theft. If anyone of the five ingredients of Section 378 is not fulfilled then, robbery under Section 390 cannot be said to have been committed

Abdul Rashid Vs. Nausar Ali [1979 CRLJ 1158 (CAL).] In this case, some armed person had entered the field of the plaintiff and was cutting the crops of the plaintiff. However, it was held that this did not amount to Robbery rather it amounted to theft, **as the element of threat was missing.**

Supreme Court in **Venu @ Venugopal Vs. State of Karnataka**, (2008) 3 SCC 94 held that in order to verify whether a particular act would amount to robbery or not, one has to first establish that the offence has essential ingredients of theft or extortion, since robbery is nothing but an aggravated form of theft and extortion.

Mens rea Absent

HDFC Bank Limited Vs. The State of West Bengal and Anr, 2023, The lender or financier took repossession of the vehicle, pursuant to the agreement executed by and between the parties, it cannot be said that the lender committed offence within the meaning of I.P.C. with the requisite mens rea and dishonest intention. At best it could be a civil dispute which has been imbued with the colour of criminality.

Financer argued that under the hire-purchase agreement. The financier is the real owner of the vehicle and that there cannot be any allegation against it for having the possession of the vehicle. High court **quashes robbery** case against Financer for taking repossession of loan defaulter's vehicle.

Other provisions of Robbery

309(4). Punishment for robbery.

309(5). Attempt to commit robbery.

309(6). Voluntarily causing hurt in committing robbery.

[The offence under this provision is a more serious than one under 309(4)].

Sl. No.	Simple Extortion (Sec 308)	Robbery (Sec 309)
1	Extortion is the act of forcing (i.e. fear of injury to him) someone to deliver property, money or valuable. Note: The fear of injury need not be bodily harm. It includes injury to mind, reputation or property as well.	Extortion becomes robbery if, at the time of the extortion, the offender is to make the victim in fear of instant death, instant injury, or instant wrongful restraint, and uses that fear to make the victim give up their property right immediately.
2	Fear exists (ie. Fear of any injury, fear of death or grievous hurt). No imminent danger or fear of violence	There is imminent fear or danger to life with / without violence. (Instant fear / instant hurt.)
3	Property is taken away by obtaining wrongful Consent.	In Robbery, either no consent or consent is obtained wrongfully.
4	Delivery is by the victim himself.	In Robbery, there is no delivery.
5	Direct or indirect act i.e. the accused may not present at the spot. No voluntarily causes to death.	Always direct act i.e. the accused is present in the spot.
6	Delivery of property may be delayed.	Property delivered on the spot.
7	In Extortion, no kinds.	In Robbery, two types Robbery by Theft and Robbery and Extortion.