

COMPARATIVE STUDY ON ROBBERY AND DACOITY

¹D.kavitha , ²K.Roja

¹Student, B.A,LLB(Hons) Saveetha School Of Law, Saveetha University, Saveetha institute of medical and technical sciences, Chennai, Tamilnadu, India

²Assistant Professor, Saveetha School Of Law, Saveetha University, Saveetha institute of medical and technical sciences, Chennai, Tamilnadu, India

¹kavithasaveetha@gmail.com , ²rojak.ssl@saveetha.com,

ABSTRACT

This paper deals with a comparative study on Robbery and dacoity. Dacoity deals under section 391 of IPC and Robbery deals under section 390 of IPC. Dacoity is aggravated form of Robbery whereas Robbery includes either theft or extortion. The main difference between Robbery and Dacoity is number of participants, In Dacoity there must be five or more person and Robbery may be committed by individual. Dacoity is most serious and heinous offence than Robbery is less offence . Dacoity single individual member commit the offence, the whole member of gang will liable for punishment but Robbery real wrongdoer is punished. Section 378 Theft deals with dishonesty any movable property out of the possession of any person without that owner consent, moves the property in order to such taking is said to commit theft. Section 383 Extortion deliberately puts any individual in dread of any damage to that individual untrustworthily prompts the individual so put in dread to convey to any individual and property or important security or fixed which might be changed over into a significant security confers blackmail. Punishment under Indian penal code for Robbery and Dacoity under 395 imprisonment for life or with rigorous imprisonment for a term which may extend to ten years, and also fine, Robbery punishment under section 392 rigorous imprisonment upto 10 years and also fine an Robbery is committed on highway between sunset and sunrise may extend to fourteen years. Section 394 Voluntarily causing hurt in committing Robbery shall be punished with imprisonment for life or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

METHOD:

This research paper has been in Analytical and descriptive method to resolved into elements and constituent parts not only that but also the structure of the issues has been classified.

RESULT:

This research paper has been divided into 3 elements where the establishment of history and comparative of robbery and dacoity, juvenile justice of crime.

CONCLUSION:

Robbery will bring the instant fear and some threat will be their whereas Dacoity plan murder and stealing ornaments. It's is heinous crime Dacoity, sometimes rape too may occur.

KEYWORDS: Robbery, Dacoity, theft, Extortion, Punishment, Life imprisonment.

INTRODUCTION:

Robbery and Dacoity, These two might seem similar in common usage but, they are two distinct crimes under the Criminal Law. The section dealing with robbery and Dacoity can be broadly categorised into following divisions are:

1. Robbery attempt to commit robbery, punishment for robbery as (sec 390, 392, 393 ,and 401.)
2. Aggravated forms of robbery (sec 392,394)
3. Dacoity (sec 391,395)
4. Aggravated form of Dacoity (sec 396)
5. Offences connected with Dacoity
 - (a) Preparation to commit Dacoity (sec 399)
 - (b) Assembling for purposes of committing Dacoity (sec 402)
 - (c) Belonging to a gang of dacoits (sec 400)
- (6) Minimum sentence in certain cases of robbery and Dacoity (sec 397 and 398).

Robbery is a special and aggravated form of either theft or extortion and means felonious taking from the person of another or in his presence against his will, by violence or putting him in fear, and it becomes dacoity when it is committed by five or more person co-jointly.

Criminal law affecting the property of a person defined under section 378 to 402 of the Indian penal code 1860 as Theft, Extortion, Robbery and Dacoity. On a Prima facie basis they seem to be very much similar to each other, but on the closer look it may be found to be slight difference which distinguish one from another. The present article focus upon the distinguish between these offences seems to be similar. It plays a pivotal differences.

The aim of the study is heinous punishment for robbery and dacoity.

Research Questions: Is Robbery and Dacoity is a criminal wrong ?

Aim of the study:

1. To study about robbery and Dacoity in India.
2. To find out wrongful restraint of other person
3. To suggest the heinous punishment for robbery and Dacoity.

Materials and methods :

This study is collected from secondary sources like books and publication from various websites in study of robbery and Dacoity.

HISTORY OF ROBBERY AND DACOITY

During ancient era robbery and Dacoity are major crimes among the country's. This crimes mainly occur on both land and water various people usually travel to works in different localities. The riverine area like West Bengal people use waterways travels accumulate Dacoity and robbery takes place easily and killed larger number of peoples. Riverine misdeeds in olden days are pirates would use swift boats in group of 20 to 30 paddles for Dacoity those lightweight craft can bear many people swiftly. The effort of government they eradicated the pirates and appointed the bands of organisers. At the present no trace of them can be found. Ancient period pirates commit Dacoity using the passengers boat travelling along with them like passengers. Some region a class of cruel and wicked pirates named 'Bijanaa' commit Dacoity on the Padma in this typical fashion even today. For these reasons boatmen of traders, jewelers and passengers craft ought never stop their boats out of compassion for lending fire or tobacco. Rather the moment they hear such a request , 'a little fire please, a little tobacco. Rather, the moment they hear the same shall remove their craft far away.

Among them pirates the Sandaar and Goaynaa bands were notorious. Many kings Nawabs and zamindars used to take the help of these pirates quite often in war. Landlords and princely houses on riverine sides vacate their houses to save their livelihood only by means of Dacoity.

Pirates, the land dacoits are extremely powerful in this past region. Landlords were forced to pay annual taxes and pirates received honour like leaders from the kings. Commencement of British rule in India there power was extreme, even ancestor lands of some popular Zamindars are looted by Dacoity and given share to British. Dacoits committed Dacoity, they would rob the poor less people too and they have target conspiracy always to hunt the big landlords houses for their establishment. Their slogan was 'hunt but the rhino, loot but the treasury.'

Later the British rule during their course of time, dacoits were wiped out. Before committing Dacoity they will worship god Kali and sacrifice some human for victories. The ritual of battle was armored elephants would crash through all obstacles and dangers with their huge bodies chariots and cavalry, but battle technique was effective on the hard ground and hilly terrain of north and south India. Royal families their scattered soldiers who built up needless dacoits bands in the past. The word Ron – paa and its monopoly use by dacoits gangs is proof.

On the enquiries many Dacoits came into beginning of British rule were sepoys and lathials dismissed during Zamindars period, Zamindars were full autonomous with respect of internal government. Law and orders of government is fully vested in hands of Zamindars. Establishment of

police judiciary Zamindars powers had lost dismissed lathials began to serve with dacoits leaders those time for their livelihood. Unworthy warriors from criminal tribes becomes dacoits several dacoit gathered and declared. Gaurey Bedey and Raghu Dakar were prominent Both lived in Halisahar Parganas of 24 Parganas. Madras village near naihati the ruin of Raghu Dakar Kali temple still exist. Wasteland of local people even today believe that treasures buried by dacoits can be found. Distant village were to be visited villagers would usually leave home only making their wills permanent arrangements for their lands and property, every moment of travel with fear of losing their lives at the hands of thengariyaa or dacoits. Even today the Dacoity are become like tales of such thengariyaa dacoits 'Kali' can be hears in villages.

These dacoits came to eat at any Zamindars place, they never took salt. That is they used to take less salt for food, they knew that good relations will not continue forever with Zamindars. Hunting for hidden treasure, men tied in posts and scorched them with beatings whereas women let alone touch their body and never tried to stole single ornaments off their bodies. Today dacoits stealing jewels and killing the people sometimes rape may occur during Dacoity. Modern dacoits at time perpetrate unspeakable indiscriminately on women and men.

Even today they use paddy- husking pedal for Dacoity. This husking pedal is implement of husking paddy. It can be seen in all houses like poor and rich villages.dacoity robbery all these paddy in poor people house and suspend it little above ground on three bamboo posts. The instrument they use is called Dhenki kol.

In olden European soldiers also used this instrument while committing Dacoity. Bringing paddy hunker on rich man poles to rich man door rope of suspended pedal had high velocity to knock the door any door or brick wall could be collapsed. During committing their Dacoity gangs will scream with some help and easily enter into the houses. They carry out Dacoity using torches and staves, torturing small children tying their legs around the waists, Then snatching the ornaments from women body. At the time of their operations their signal of position by imitating like jackals.Dacoit gangs of the past is Thugis and Pindaris were prominent. They robbery passengers money and belongings, knotting a coin at end of the strip cloth fling around the victim throat and it become noose.looting their belongings is another way for killing passengers. For suppressing them a special section was added to the Indian penal code.

In recent times railway robbery features are major type of Dacoity. Gang of member rides in train and plan to pulls emergency chain in lonely deserted area place to stop train. Later they will runaway with looting ornaments from passengers. Present scenario dacoits are found to unnecessarily killing people for little money. Extreme materialism they follow such kind of mentality, lack of faith in religion that is responsible.

Their view sin and virtue are distortions of the mind. Besides some become so nervous to lose all the sense of discrimination at that time. At this time they sort of patient to owning lack of practice, mainly

lack of self control is reason behind this. professional dacoits have taken crime as main business. They knew needless cruelty is harmful business. Dacoity good and evil have their own views, there is too much of weeping and wailing even some have looted from their working place like household works. The dacoits won't lose their patience during committing Dacoity. Besides some people commit Dacoity for enjoying their thrills.

During Muslim rule Dacoity gangs have been established parallel government in many places. Local Zamindars had helped them. Muslim have established supremacy in towns and the capital of Hindustan had no powers in remote areas of the country . Zamindars and dacoits leaders ruled unchallenged, because at the rise of Marathas, jats and rajputs etc.. the Mughal empire easily collapsed. The passengers travelling in two-wheelers across highways robs by local dacoits.

RESULT OF THE STUDY:

Landlords were forced to pay annual taxes and pirates received honour like leaders from the kings. Commencement of British rule in India there power was extreme, even ancestor lands of some popular Zamindars are looted by Dacoity and given share to British.

juvenile justice committed in crime.

The juvenile justice system children in India ought to been subject of prime focus of development planning, research, welfare, in India but it has not been so. Constitution vision healthy and happy child protected against abuse and exploitation. The aim of legislation is providing care, protection, treatment and rehabilitation of delinquent and neglected juvenile. The due process of juvenile are substantial and procedural law. Formal legal intervention of young persons have doctrine Parens Patriae juvenile primary justice for economic and social well being community contain harmful behavior of youngsters .

Legal definition of juvenile : According to the Juvenile Justice (Care and Protection of Children) Act, 2000 Section 2(k) defines that "juvenile" or "child" means a person who has not completed eighteen year of age. Again in 2015 juvenile justice is amended after the Delhi gang rape occurs. A child mean a person who has not attain the age 18 years of the age and not mature to understand the consequences of crime and nature. In modern days, the penal code of most countries adopted the principle of Doli incapax means of knowing that act there are committing is crime. The penal laws also states only child between of the 7 to 12 age can' be convicted. Child have committed heinous crime and known the consequences can be punished, without having sufficient knowledge and consequences of crime can't be punished.

According to sec2(12) of juvenile care and protection act 2015. A child means a person who doesn't completed the age of 18 years. The act classifies into categories are need care and protection then conflict with law.

A child in conflict of law : the child below age of 18 years who committed offence on the date of enquiry. Child need care and protection is defined under section 14 of act.

Children Act, 1960 :- Section 2(e) of the Act states " child" means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.

United Nations Convention : – The UN Convention on the Rights of Child, 1989 defines that "child" means a human being below the age of eighteen years unless the law declaration applicable to child , majority is attained earlier.

Difference between Juvenile and Child

A young person is child who committed crime below the age of 18 years, is sent to juvenile for care and protection. Sometimes child will act like adult in court proceedings. The court will appoint guardian for child till he attain full legality. In general both are similar in the eye of law, teenage persons are minor indicates the immature.

JUVENILE JUSTICE ACT, 2000

Juvenile justice crime in last years after the Delhi gang rape again it is amended. Protection and care is lacking. It contain lot of gaps and loopholes malfunctioning crimes increasing for young persons. The law makers were forced to amended this act and reduce the crime rate but still it is increasing. Later this act is replaced as juvenile justice (care and protection) Act 2015.

Current scenario

India also made legal provisions specifically deals with rights of juvenile offenders and tackle their problems. They made 3 main assumptions:-

1. The offenders should be corrected in possible ways and they should be punished.
2. They should get the chance to rehabilitate.
3. Trail of child in conflict with law based on non- penal, communities based treatment.

CAUSES OF JUVENILE DELINQUENCY

This deals with behaviour of children. Day -to-day growing their behaviour will be keep on changing from their early childhoods stages. The circumstances and society are responsible for their changes. Some causes for delinquency assumptions are:

1. **ADOLESCENCE INSTABILITY:** This anti-social behaviour of the child is psychological, biological, and sociological are the major factors for behaviour pattern of adolescent. This age teenagers will be changed in lifestyles, food, community,etc..and want to be independent. The chances are given by elders , parents, teachers and society is the main cause for their doing.

2. **DISINTEGRATION OF FAMILY SYSTEM** : Now a days increasing of the crime rate is lack of parents control, divorce, love and affection is major juvenile factor.
3. **ECONOMIC CONDITION AND POVERTY** : during childhood days , children are stealing money from neighbours and their own house to fulfill their needs. Poverty and economic condition of family makes them to steal results in theft at large scale. Poverty make the parents not to fulfill the basic needs of child.
4. **MIGRATION**: migration is deserted from one place to another and carried illegal works. Smuggling, prostitution, drugs, narcotics. These activities done by juvenile and involve them more.
5. **SEX INDULGENCE** : the children during their childhood have faced many physical and mental assault which involve them in sex. Too many sex indulgence occurs for both girl and boy which leads to kind napping and rape.
6. **Modern Life style**: the western lifestyle totally difficult to adopt by children. They can't understand the consequences of right and wrong. This is also reason for adolescent. The traditional customs and cultural will teach the good one, when it change into modern brings all problems including technology.

Juvenile Justice and Constitution of India

The Indian constitution part-III deals with fundamental rights and part -IV deals with directive principles of state policy. Provides a basic rights and welfare of child.

1. Right to free and compulsory elementary education for all the children under the age of 6 to 14 years.(Article 21A)
2. Right to be protected from any hazardous employment under the age of fourteen age.(Article 24)
3. Right to be protected from being abused in any form by an adult.(Article 39(e)).
4. Right to be protected from human trafficking and forced bonded labour system.(Article (Article 39)
5. Right to be provided with good nutrition and proper standard of living.(Article 47)
6. Article 15(3) of the Constitution of India provides special powers to State to make any special laws for the upliftment and the betterment of children and women.

Therefore, the law makers while drafting the Juvenile Act, 2015 has consider all the necessary provisions laid down by the Constitution so that child's rights are protected in all the possible ways. The chapter IV DPSP also provides for better treatment for juvenile sand not punishment. In jurisprudence too they focused various punishment mainly for juvenile Reformative and Rehabilitation to recover their lives.

RESULT OF THE STUDY:

Formal legal intervention of young persons have doctrine Parens Patriae juvenile primary justice for economic and social well being community contain harmful behavior of youngsters. In modern days, the penal code of most countries adopted the principle of Doli incapax means of knowing that act there are committing is crime.

COMPARATIVE STUDY ON ROBBERY AND DACOITY.

Robbery under section 390 theft is robbery if, in order to committing of the theft, carrying away or attempting to carry away property obtained by the theft, the offender, for that end voluntarily attempts to cause any person death or hurt or wrongful. Restraint death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery: Extortion is “robbery” if the offender at the time of committing the extortion is in the presence of the person put in fear and commits the extortion by putting that person instant fear and there to deliver up the things extorted.

Essential for robbery : Robbery is either form of theft or extortion. Dishonesty is essential theft and extortion committing, if this element is absent there is no robbery. Extortion is robbery. Immediate presence of victim in fear of instant death or hurt or wrongful restraint.

Mohinder singh vs state of Haryana : the complaint victim was a taxi driver. When he was standing at taxi stand a clean shaven young man hired the complaint’s car. The fare was settled at Rs 1.20 per kilometer. A sum of Rs.400 was paid to complaint as advance. A few minutes later, another gentleman aged about 25. Years came there and both of them get into the car. A few hours, later when the car was on its way , the clean shave man placed a revolver on the neck of the complainant and asked him to stop the car. Out of the fear the complaint stopped the car immediately. A clean shaved man fired a shot in the air and companion demanded to pay Rs.400 in advance. After he accepted his he gave Rs.400 later he drove out from the car. The complaint driver informed this to police. By evening, the accused were stopped apprehended by the police. A revolver and Rs.400 were recovered from them. The accused were convicted under section 390,IPC.

Possession of stolen property :

Possession of stolen property has always been considered as sufficient presumption evidence to prove the commission of the theft and robbery. Lachhman ram vs. state of Orissa: the fact of recovery of articles at the instance of the accused persons in the presence of police officers and panch witness who have deposed to the same, was held as sufficient to bring the case not only under the provisions of section 412 Ipc , but also under section 395, Ipc with the aid of section 114 , Evidence act because the recoveries were made very soon after the occurrence.

Punishment for Robbery :

Section 392 whoever commits theft might be punished with thorough imprisonment for a term which may reach up to ten years and should likewise be obligated to fine and if the burglary be committed on the highway amongst nightfall and dawn, the imprisonment may be extended to fourteen years.

Punishment of Gang of robbers: sec401 whoever at any time after the passing of this act shall belong to any wandering or other gang of person associated for the purpose of habitually committing theft or robbery and not being the gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to 7 years and also shall be liable to fine.

Attempt to commit robbery : whoever attempt to commit robbery shall be punished with rigorous imprisonment for a term which may extended to seven years and shall also be liable to fine.

Aggravated Form of Robbery : section 394 voluntarily causing hurt committing robbery and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, with rigorous imprisonment for a term which may extended to ten years and shall also be liable to fine. *Aslam vs. state of Rajasthan*: the Supreme Court reiterating that offence under section 394 is more serious than that under section 392 has clarified that section 394 not only classifies the person into two (I) those who actually cause hurt and (ii) those who don't actually cause hurt but are jointly concerned in the commission of the offence of robbery but also imposes liability on the latter. They become liable for the hurt caused by the former even though they didn't participate in causing the hurt or had no knowledge of its likelihood.

DACOITY : when five or more persons conjointly commit or attempt to commit robbery or where the whole number of persons conjointly committing or attempting to commit 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. Dacoity is nothing but Robbery committing by five or more persons. The total number of persons involved at whatever level, either as the main persons or as aiders, shall be five. They should be involved in either committing, attempting to commit or in aiding the commission of robbery.

Essential of Dacoity: (i) five or more person must act in associate (ii) such act must be robbery or attempt to commit robbery. (iii) the five person must consist of those who themselves commit or attempt to commit robbery of those who present and aid the principal actors in the commission or attempt of such robbery. *Om Prakash vs State of Rajasthan* the Supreme Court rule that where the charge of Dacoity is against five named person and out of them two are acquitted. The remaining three can't be convicted for Dacoity.

Poolan Devi vs state of Madhya Pradesh : Smt. Phoolan Devi was in custody since February 12, 1983 when she claims to have voluntarily surrendered in the State of Madhya Pradesh with a criminal past. She

was in the Central Jail at Gwalior in Madhya Pradesh In this writ petition filed in January 1993 under Article 32 of the Constitution she has prayed for a direction for her release from custody, and an appropriate writ, order or direction quashing the large number of prosecutions initiated against her by the State of Uttar Pradesh for commission of heinous a offences, e.g dacoity and murder. In substance, she claims that her right to speedy trial guaranteed under Article 21 of the Constitution has been violated and her continued custody was without any lawful authority. By an order dated February 18,1994 this Court directed release of the petitioner on parole in view of the fact that the petitioner had been in custody for a period of eleven years till then. The petitioner is on parole pursuant to that order. On this basis it is claimed that the custody for eleven years under gone by the petitioner is sufficient to satisfy this requirement and all the prosecutions pending against her in the courts in Uttar Pradesh should be quashed. According to the petitioner there are about 55 criminal prosecutions against her in the courts in Uttar Pradesh alleging the commission of heinous offences like dacoity and murder by her.

Punishment for Dacoity : section 395 whoever commits Dacoity shall be punished with imprisonment for life or with rigorous imprisonment for a term which may be extended to ten years and shall also be liable to fine. Dacoity is considered a very grave and serious crime and hence the courts have held that in cases of Dacoity , deterrent sentence is called for. In awarding punishment for an offence under this section, two things are considered (i) having regard to the gravity of the offence committed, the punishment of that each individual deserves, and (ii) on the facts and circumstances of a particular case whether an unusually heavy sentence is required to protect the interests of the public at large by acting as deterrent to others.

Dacoity with murder : section 396 If any one of five or more persons, who are conjointly committing Dacoity, commits murder is so committing Dacoity, every one of those persons shall be punished with death, imprisonment for a term which may extends to ten years and shall also be liable to fine. Laliya vs state of Rajasthan: high court of rajasthan held that the decision as to whether the murder is or is not a part of the transaction of Dacoity has to be taken in the backdrop of facts and circumstances of the case at hand.

Robbery or Dacoity attempt to cause death or grievous hurt : section 397 If at the time of committing robbery or Dacoity, the offender uses any deadly weapon or causes grievous hurt to any person, so attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Ashfaq vs state : The Supreme Court ruled that weapon with which the offender is armed is a deadly weapon within the meaning of this section, if it is within the vision of the victim and is capable of creating terror in the mind of victim. It is also sufficient to satisfy the word 'uses' for the purpose of section 397 Ipc.

Attempt to commit robbery or dacoity when armed with deadly weapon : section 398. If at the time of attempting to commit robbery or Dacoity the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished not be less than seven years.

Making preparation to commit Dacoity: section 399 whoever makes any preparation for committing Dacoity shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment belonging to gang of dacoits : Section 400 whoever at any time after the passing of this act, shall belong to a gang of persons associated for the purposes of habitually committing Dacoity, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to gang of thieves : section 401 whoever, at any time after the passing of this act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing Dacoity : section 402 whoever, at any time after the passing of this act, shall be one of five or more persons assembled for the purpose of committing Dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Statistical chart

| Robbery past and present | Dacoity past and present |
|--------------------------|--------------------------|
| 2014 : 43 | 2014: 01 |
| 2015: 34 | 2015: 04 |
| 2016: 20 | 2016: 0 (Nil) |

RESULT OF THE STUDY :

The comparative study of Robbery and dacoity ,Robbery under section 390 theft is robbery if,in order to committing of the theft, carrying away or attempting to carry away property obtained by the theft, the offender,for that end voluntarily attempts to cause any person death or hurt or wrongful. Dacoity is nothing but Robbery committing by five or more persons. The total number of persons involved at whatever level, either as the main persons or as aiders, shall be five. They should be involved in either committing, attempting to commit or in aiding the commission of robbery. There is statics comparison of robbery and dacoity past and the present .

Conclusion :

The robbery is part of Dacoity. Both are interlinked to each other. Robbery will bring the instant fear and some threat will be their whereas Dacoity plan murder and stealing ornaments. It's is heinous crime Dacoity, sometimes rape too may occur. Five or more person together will plan for Dacoity, robbery an individual is enough. The punishment system in India is not perfect. It has to be changed as early as possible. Early days crimes were less and punishment is high. Robbery and Dacoity can reduce only scrutiny of youngsters because punishment is less under Indian penal code. Hence my hypothesis is proved.

Suggestion

- The petty offence must be punished by ordering them to do the public service or community service in a selected institutions instead of imposing fine or sending them to jail to under go short term sentences.
- The permanent Statutory Committees should be established at both national and State levels to monitor the sentencing process.
- The child or elderly person whoever commit the robbery or Dacoity shall be punished according to their crime and not age.

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