CORROBORATIVE EVIDENCE - AN IMPORTANT DETERMINANT OF EVIDENTIARY VALUE

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ABSTRACT

There has been a long-drawn discussion as to determine what actually can be termed to be evidence of corroboration, the answer to this is that the term corroboration simply is implicit in all forms of evidence as acts forming parts of the same transaction (Res Gestae) gives evidentiary value and dictates and specifies the boundaries of all forms of evidences. Corroborative evidence has been the weakest form of evidence of all the evidences available to prove a case. These evidences don't have any independent standing value; hence they are used to uphold the substantial evidences. The corroboration is the need that arises to prove the fact in existence or to prove a fact in issue. The inference for corroboration and its meaning can be drawn only when its working with the other relevant facts is analysed and taken into consideration. The corroboration doesn't generally possess any nature or of any value in its independent form, it follows the theory of reciprocity where it is used to uphold the substantial evidence and at the same time the substantial proof validates the test of corroboration. Still, there is a need to alleviate the evidentiary value of corroborative evidence as they may form sole basis of conviction. One such type is the expert evidence which has the ingredients necessary to prove a fact beyond doubt, but is still harboured as only supporting evidence. But this area under development which includes DNA analysis and Fingerprint scanning are the exact sciences which are able to prove the questions as to facts in issue. It is not prudent to stay aloof on this concept and there is an awakening need to recognise the corroborative evidences as they too form parts of the same transaction, which at times may be used as sole basis of decisions.

INTRODUCTION

Corroborative evidence is something that can be differentiated only when we can comprehend the term 'res gestae', where the res gestae forms part of the same transaction, corroborative evidence supports or adds value to the circumstances that can lead in proving or deciding a fact in issue. These are the supporting evidences that helps to increase the probative value of the direct evidence or to put into words they tend to extenuate the doubts of a fact in issue, when there are only circumstances leading to it. They perform the function of validating the criteria of proving a circumstance without the Iota of doubt, as per the five conditions that are to be filled for the admissibility of circumstantial evidence as the sole convicting source. The corroborative evidences get their name from corroboration whose literal meaning is to support, this is because the corroborative evidence cannot be directly admitted as it possesses low or nil evidentiary value to the fact in issue. To light up the concept let us have a look at an illustration as to what corroborative evidence is.

In a crime or a wrong committed by a person or a group of persons, any one person from the said group who narrates the factual happenings as it was before and after the commission of the act which actually forms parts of the same transaction but do not exclusively form the heart part of the commission of the act (res gestae) or sometime being facts of unconnected independence and hence having a diminished proximity value compared to the close degree relevant facts are the evidences that help to corroborate the substantial evidence.

Illustration 1.

An accomplice who took part in a murder gives description about the events of variety that happened and led to the commission of the act. These are considered to be corroborating evidences.

Illustration 2.

A says about the fact that happened in the street right before the commission of the crime. The fact introduced can be used to corroborate the relevant fact.

Illustration 3.

A sees a crime and reports to the police. If A is not able to deliver the same in the court, the FIR made by the police can be used to corroborate the direct evidence of any other eye witness

or of a relevant fact.

Illustration 4.

A hears the dying declaration of B. Later in proceedings the words of A if repeated in the same manner as B said, would amount as evidence to corroborate the cause of death of B.

Illustration 5.

The corroboration can be made to prove or validate the circumstantial evidence. Where A saw B running away with a knife and subsequently saw C lying dead, comes to the conclusion that B murdered C. D saw B dropping the knife in the river. Here D's evidence can be taken into consideration as an evidencing corroborating the circumstantial or presumptive evidence given by A.

MEANING AND DEFINITION OF CORROBORATIVE EVIDENCE

Corroborative evidence is a weak form of evidence, which doesn't have the evidentiary value as that of the direct evidence, or of any relevant facts or of the circumstantial evidence, but it forms a part of probative valuation of the other given evidence through series of unconnected independent happenings. These happening may also lead to the discovery of other important relevant facts or help in proving or validating the primary witnesses.

STATUTORY PROVISIONS FOR CORROBORATION

Section 156[1] to section 158[2] of the Indian evidence act talks about the forms of corroboration and the evidentiary value of corroboration and what that corroboration can prove and what it cannot prove. The statements generally made in previous proceedings or to any authority and the questions raised by the courts to inquire into the facts in issue are to bring into light the happenings and circumstances that may increase the value of the witness or maybe even disprove the witness.

1. SECTION 156

This section exclusively deals with the probation of a witness using corroboration. The person being the primary witness may also corroborate the evidence given by him, by

[1] Indian Evidence Act, 1872
[2] Indian Evidence Act, 1872

reciprocating the circumstance that were observed by him around the happening, at the time or place near the happening, which if proved would corroborate the primary evidence given by him or if it introduces any relevant facts.

- Law says that any matter with credible evidence of the witness is not sufficient enough for the conviction of the accused without the independent corroboration of such evidence. This is why the questions are raised by the judges or the opposite counsels to either reciprocate or make the primary evidence strong enough to affect the conviction. It is also sometimes contradictory to the primary or direct evidence in a way when the corroborative circumstances are introduced, they may tend to disprove the statement claimed by the witness, because while giving in circumstances, they should not lead to any new hypothesis than that intended. If any other new course of action is to get root through this, then it's going to give the benefit of reasonable doubt, which is a hindrance to the conviction based on the primary evidence. The test of truthfulness of a witness is corroboration.

2. SECTION 157[3]

This section deals with the former statements that were made to prove the testimony as to the same fact later. The essentials are that the witness should have given a testimony about the relevant fact in the contemporary proceeding, this testimony can be proved with a statement he had already made relating to the same fact or about the fact at or about the time which it took place before any competent legal authority. The former statement need not be corroborated by the witness. The existence of any such former statement made need not be disclosed in the testimony of the contemporary proceeding. The court need not take cognizance of any such statements unless they are in same nature as to the facts in question presently. Any statement relating or corroborating to a relevant fact is not to get a place under this section.

ADMISSIBILITY

The admissibility may be defined and accepted as to the discretion of the court and there is no express provision as to decide the how and where of the facts of corroboration or the statements made relating to it. This doesn't give the court the sui generis jurisdiction, but simply when the judges are satisfied as to the facts and statements made previous, they may admit it.

[3] Indian Evidence Act, 1872

- ***Jadu Nath Sarker v. Mahendra Nath Rai Chowdhury***[4]

In this case a deposition made long back relating to the fact in issue as to whether A and B are brothers were taken as corroborative evidence to support the present deposition and hence it was admissible under the section 157 and not otherwise. The admissions to prove their own cause which is generally not taken into consideration as admission is granted an exception under this section.

- ***Parvati Devi v. State***[5]

In this case, the statement made by a girl who is a rape victim, right after the incident took place was considered valid under section 157 and section 8[6] to corroborate her testimony made

Statements under the section

A statement made under this section may be of any form. Any records kept by the person of the statement in the ordinary course of business also amounts to a statement under this section, even the entries made under section 34 can be statements under this section. Communication of the said statement to any other person is not necessary for a statement to be admissible under this section. Statements that are made immediately after the occurrence of the act by the victims amounts to statement mentioned under this section of the act.

- ***Ramaratan v. State of Rajasthan***[7]

The witness is not obliged to include in his testimony the fact that he had already made a previous statement relating to the same to make that statement admissible. Those statements as admissions have an exception under the section 21 of the Indian evidence act.

Time at which the statement is to be made

The statement is to be made as soon as possible after the act; no delay should be there. A delay in the statement made like that in the test identification parade may lead to corrosion of the value of the evidence given by the statement made. The delay in time decreases the accuracy of the statements in describing the factual happenings. At times the delay makes the statement

[4] Jadu Nath Sarker v Mahendra Nath Rai Chowdhury, (1907) 12 Cal WN 266
[5] Parvati Devi v. State, AIR 1952 SC 831: 1952 Cr LJ 1667
[6] INDIAN EVIDENCE ACT, 1872
[7] Ramratan v State of Rajasthan, AIR 1962 SC 424: (1962) 1 Cr LJ 473

inadmissible because there is scope for tutoring during the delay. As everywhere in law, it is quite difficult to assume what the reasonable time for such statement is. The time may differ based on the cases and facts. In certain cases, reasonable time is extended to resort to the authorities.

- ***Mahabir Singh v. State of Haryana*** [8]

In this case, the primary and sole witness of the murder as soon as he saw the incident, narrated the same to his father. The father without any delay filed FIR with the police stating the same as his son narrated to him. The FIR was admitted as corroborative evidence to the testimony of the sole witness. The supreme court held in this case that the FIR filed was about time of the incident and there wasn't any delay from the act.

The section confers the power to independent statements at times and also to the admissions that are made in previous cases to corroborate the same fact in the subsequent proceeding.

- ***State of Tamil Nadu v. Suresh***[9]

In this case, the supreme court of India, gave the test for determining the reasonable time. The simple emphasis was to decide on the fact that whether the time gap between the occurrence and the reporting or entry of the statement, had a convulsive window of time for the fabrication or tutoring of the witness. The test for reasonableness differs from each case as they all are unique. The appeal was to just state the and notify that the time mentioned in the section doesn't straightaway make any statements inadmissible.

- ***Re Appaduras***[10]

The case held that if there is a time interval that passes between the incident and subsequent statement made, it is of general sense to take that the value of the statement is decreased, as the notion is that the statement made is taken to have been tutored or fabricated.

3. NEXUS BETWEEN SECTION 157 AND SECTION 21[11]

Section 21 of the act generally states that the admissions made by a person can only be used

[8] Mahabir Singh v State of Haryana, AIR 2001 SC 2503: 2001 Cr LJ 3945.
[9] State of Tamil Nadu v Suresh, AIR 1998 SC 1044: (1998) 2 SCC 372: 1998 AIR SCW 819: 1998 Cr LJ 1416
[10] Re Appaduras, (1945) Mad 821.
[11] Indian Evidence Act, 1872

to prove against the person or the opposite party but not his own case except in certain case;

- Where the admission would be treated as a relevant fact under section 32[12] if the person is dead,
- Where the admission is a statement to prove the state of mind or body of the person to protect him from conviction of bias,
- Where the admission is itself a fact of relevance to the case in hand.

So, in collaborating the sections together we get that the admissions made previously, which are bona fide statements of the person making it, can be used to prove or uphold or corroborate the same admission made by the person in any subsequent proceeding about the same facts in question. The admissions which cannot be used to prove the case of the person making it, can be used for corroboration. We can say that after the admission is used for corroboration, it falls under the category of estoppel. So, the person making and admission and using it as a corroborative medium in the subsequent proceeding is estopped from going back on what he said.

DYING DECLARATION AS CORROBORATION

This nexus between the two above mentioned sections, give rise to the strata of where dying declaration is to be placed when it is made by the person when he is alive after making the dying declaration. Using in dying declaration, the English rule is that the person making the dying declaration should be aware of the fact that death is the near cause of the act happened to him, thus emanating the principle that when being near to death, no person would lie. Contrary to this, in Indian law, the dying declaration need not be made by any person making it only when he is sure about the event to happen next is his death. The validity of the declaration is dealt only with the mental condition of the person making it, where he believes to his knowledge that death is the next event. Using this mental condition, the courts can take into consideration the dying declaration made by the person when he believed himself to be near to death and made such declaration and subsequently after that, he didn't die but was injured or any suffered any imminent hurt to his mind, body and modesty, such declaration made by him in fear of death may be used evidence and admitted by the court under section 157 to corroborate the testimony given by the person in the current proceeding. The dying declaration is always considered to be bona fide because of the principle that when being near

[12] Indian Evidence Act, 1872

to death, no person would lie and thus it is used to increase the probative value of the testimony. The emphasis is greater for dying declarations because, the declaration made can be used as a sole basis for conviction of an accused if it is supported by circumstances. Though the dying declarations need to be properly noted by the authority assigned and the value of the dying declaration differs with the different authorities they have been made to.

- ***Emperor v. Rana Sattu***[13]

In this case, the court discussed about the value of evidence conferred on a dying declaration after when the person making it is said to have been out from the danger or proximity to death. The declaration may not be treated as direct evidence as under the section 32 of the act but it can be used as a medium of support to uphold the testimony given by the victim.

- ***Sunil Kumar v. State of Madhya Pradesh***[14]

The value of the then dying declaration during the time of testimony is to be considered to be of high quality and can serve the testimony as a single corroboration to increase the value of the testimony.

- ***Paresh v Sadiq***[15]

The mere non statement of the name of the assailants when not asked by the magistrate doesn't render the whole deposition invalid. The maker of the statement had to be under the fear of death and should have made a declaration relating to the death and the following the conditions as follow:

- It must be a statement, written or verbal,
- The statement must relate to the cause of his death or the circumstances of the transaction which resulted in his death and not the cause of the death of someone else,
- The cause of the person's death must be in question.

The maker of the dying declaration when alive and testifies, the declaration to corroborate needs to fulfil only the first two conditions and not the other conditions pertinent to the death

[13] Emperor v Rana Sattu, (1902) 4 Bom LR 434
[14] Sunil Kumar v State of MP, (1997) 10 SCC 570
[15] Paresh v. Sadiq, AIR 1993 SC 1544: 1993 Cr LJ 1857.

and no where there is a law to disclose the names of the assailants to make the declaration valid and effective. In ***Queen Empress v. Abdullah***[16], a dying declaration made with actions which did not reveal the names of the assailants was taken into consideration as a valid dying declaration.

- ***Gajula Surya Prakasarao v. State of Andhra Pradesh***[17]

In this case, the court held that the statement made by a person who is about to die or in fear of death or is near to death is admissible even if he is alive after the deposition or the declaration made. The said statement or declaration or the deposition gets harbour under the section 157 of the act.

4. CORROBORATION OF DYING DECLARATION BY MEDICAL EVIDENCE

Under the tab of the expert opinion, a dying declaration's validity or value is to be corroborated by the medical expert evidence, post mortem. At times, the said declarations may not be clear or may not fulfil the conditions laid down. In those cases, the post mortem report comes into use to uphold and corroborate the declarations made by the victim. But it is always rare to say that the medical evidence corroborates the description of the incident and the injury described by the victim after the crime in his dying declaration.

FIR AND CORROBORATION

FIR, generally is not a piece of substantive evidence, but it has the value to corroborate the already made or given evidences like that of an eye witness. The FIR at times may also come in handy to the prosecution and also to the defence at times because like admission, the FIR is a copy of true certification and is considered to be non-fabricated peeve of corroborative evidence which estops the witness to go back on what he said. It was held in **Gulshan Kumar v. State**[18], that the FIR can be taken to corroborate or contradict and also acts as a test for the prosecution side story's truthfulness.

- ***Bhimappa Jinnappa Naganur v State of Karnataka***[19]

In this case, where there wasn't any express mention about the eye witness in the FIR, the eye

[16] Queen Empress v. Abdullah 1885 SCC OnLine All 55 : ILR (1885) 7 All 385.
[17] Gajula Surya Prakasarao v. State of Andhra Pradesh 1996 SCC (Cri) 38
[18] Gulshan Kumar v State, 1993 Cr LJ 1525 (Del) : (1993) ILR 2 Del 168.
[19] Bhimappa Jinnappa Naganur v State of Karnataka, AIR 1993 SC 1469: 1993 Cr LJ 1801

witness in the proceeding was rightly disbelieved taken the FIR into consideration as evidence.

INDEPENDENT WITNESS AND CORROBORATION

Independent witness in law has got the value similar to that of a direct witness. This is because, the independent witness may be the person who was the only sole witness of the act committed though expressly he may not have been in the place of the act and its commission. He falls under the category of res gestae. In ***State of West Bengal v Orilal Jaiswal***[20], it was held that the witness and oral deposition as to the mental torture committed by the husband to the wife given by the brother and mother of the victim was taken to be enough to convict the husband even though there was no corroboration of the same. But generally, a contrasting opinion can be seen as to the development of independent witnesses as evidence. It is of general proposition that the independent witnesses are to corroborate the direct evidences given for the case. The witness again falls under res gestae, forming the parts of the same transaction but here the effectiveness or the quality of witness is not taken to be of the highest degree and hence assumes only corroborative character. Only in special cases, it is taken cognizance similar to that of direct evidence given to a fact in issue.

- ***Leela Ram v. State of Haryana***[21]

In this case, it was held that the independent witness can be used as corroboration to prove the substantial evidence. Or to put into sense, they just reiterate or uphold the direct evidence. The discussions in this case puts independent witnesses under the criteria of corroborative witnesses and no separate evidentiary value as to or like that of the primary evidence can be conferred on the independent witnesses.

TAPE RECORDING AND CORROBORATION

As far as now, tape recording though is considered as documents, the value propounded on them is very low compared to the other forms of evidence. This is because the tape recordings are susceptible to tampering. In practise, the tape recordings are used only as a medium of corroboration to the established facts and the evidences furnished to decide on the facts in

[20] State of West Bengal v Orilal Jaiswal, AIR 1994 SC 1418: 1994 Cr LJ 2104: (1994) 1 SCC 73: 1994 SCC (Cri) 107
[21] Leela Ram v State of Haryana, AIR 1999 SC 3717: (1999) 9 SCC 525.

issues. They haven't acquired the character of sole determination or standing on its to prove or disprove the facts in issue.

- ***Pratap Singh v State of Punjab***[22]

In this case, the court held that the tape recordings when are clear about the matters in issue, or related to the matters in issue and is clear and efficient evidence as to prove the voice of the speakers, then too it can only be used as a way of corroboration to the other expressed evidences.

CORROBORATION AND CONFESSIONS

Confessions are generally treated to be evidences of higher degree and valuable as the accused himself accepts and breaks down the happenings of the case before any competent authority. But in some cases, where the confession is weak like that of the extra judicial confession, it needs to be corroborated with additional circumstances to prove its value and on failing to do so, they don't have any value other than to just reiterate what the other evidences of the case says. In ***Sahoo v State of UP***[23], the court held that the rule of prudence says that the confessions cannot form the basis of sole convictions. They are to be corroborated by other evidences and then only it is said that proper justice is rendered. They operate on the basis that one man's fear, makes him a prey to another. In ***Balbir Singh v State of Punjab***[24], the court demanded the prosecution to provide with circumstantial evidences to corroborate the confessions, without which the confession was considered to be weak. In ***Ganesh Prasad Singh v State of Orissa***[25]**,** the court rejected the confession because of absence of corroboration. In ***State of Tamil Nadu v Kutty***[26]**,** the court held that the confession when rejected by the court, doesn't matter the type of confession, the said rejected confession when done by a co-accused cannot be used for corroboration against the accused. Though this can be argued, courts have the power to decide and convict based on a judicial confession as the sole basis of conviction without corroboration.[27]

5. EXTRA JUDICIAL CONFESSION

[22] Pratap Singh v State of Punjab, AIR 1964 SC 72: 1964(4) SCR 733.
[23] Sahoo v State of UP, AIR 1966 SC 40: 1966 Cr LJ 68
[24] Balbir Singh v State of Punjab, AIR 1957 SC 216: 1957 Cr LJ 481
[25] Ganesh Prasad Singh v State of Orissa, 1987 Cr LJ 1345 (Ori),
[26] State of Tamil Nadu v Kutty, AIR 2001 SC 2778: 2001 Cr LJ 4168.
[27] Shankaria v. State AIR 1978 SC 1248: 1978 Cr LJ 1251.

- ***Pakkirisamy v. State***[28]

In this case it was held that the extra judicial confessions are corroborated using circumstances to clear the Iota of doubt, there is no law or no custom that can stop a court from convicting that person based on the extra judicial confession made by him.

It is not always safe to rely upon the extra judicial confessions made, courts generally do not convict any person based on any extra judicial confessions made by them except when there are enough circumstances to support the confession. The rule for the courts is to look for independent and reliable corroborations before trusting the extra judicial confessions. This is because the extra judicial confession confers a very weak nature and can only be taken into consideration if the doubts are removed as to other questions of facts in issue, and this more than a rule casts a duty on the courts to look for corroborations,

6. RETRACTED CONFESSIONS

Retracted confessions on the other hand have got the evidentiary value of conviction only when it is corroborated by other circumstances, it is not safe to rely on a retracted confession as the sole basis of conviction of the accused.

ENTRIES IN RECORDS AND CORROBORATION

The entries made in the books are considered to be secondary evidences and there arises a need for it be corroborated to prove the fact in issue. In, ***Gopeswar Sen v Bejoy Chand Mahatab***[29]**,** it was held that the entries kept in books and records are not enough as the sole evidence to convict a person unless it is been corroborated by other evidences. So, this confers the entries with the nature of corroborated evidence. It is normally a fact that, the corroborated evidences are generally used to support a very weaker form of evidence, that may lead to form a circumstance but not directly prove the fact in issue, thus conferring on itself a corroborative nature. In, ***State Bank of India v Yumnam*** **Gouramani Singh**[30], it was held that the entries on record with sufficient corroboration by other evidences were treated as sufficient proofs for a loan transaction.

[28] Pakkirisamy v. State (1997) 8 SCC 158: 1997 SCC (Cri) 1249.
[29] Gopeswar Sen v Bejoy Chand Mahatab, (1928) 55 Cal 1167.
[30] State Bank of India v Yumnam Gouramani Singh, AIR 1994 SC 1644: 1993(3) SCC 631.

EXPERT OPINION AND CORROBORATION

Expert opinion however validating it is, the cognizance cannot be taken from it to prove a fact in issue and the expert opinion can't be the sole basis of conviction. The discretion is with the judge to decide the value of the evidence, mostly the expert evidence is used to support the already made up and existing circumstances. So, we can conclude that the expert opinions are to be taken as evidence of corroborative value. In, ***Tomaso Bruno v State of UP***[31], the court held that the expert opinion of a case is only to assist the judge and the court to arrive at the final conclusion. The court further held that the expert witness's duty is only to assist for the effectiveness of the court by furnishing information on reports that are relevant and helps in determining the facts in issue through the expertise he possess on the subject. These are generally advisory in nature, thus enabling the court either to accept or disregard the same. The evidence given by them are considered to be weak and the inference value from it hinders the courts from relying solely on it. At times the expert opinion when having sufficient corroboration can be used to serve as basis of conclusive proof.

7. HANDWRITING EXPERTS

In ***Shashi Kumar v Subodh Kumar***[32]**,** the court created emphasis on handwriting experts. The handwriting expert and the opinion given by them though can be relating to the conclusive proof, they are to be taken only as corroborative to the direct evidence and substantial evidence. This is because they are not exact science.

In ***Alamgir v. State***[33]**,** the court said that the handwriting opinion could only get value when there is strong direct evidence to support the same.

CONCLUSION

The corroboration as a whole procedure is to further support or establish new aspects of the relevant facts in a way to answer the questions that linger around the provable facts in issue. The corroboration doesn't generally possess any nature or of any value in its independent form, it follows the theory of reciprocity where it is used to uphold the substantial evidence and at the same time the substantial proof validates the test of corroboration. Courts look for

[31] Tomaso Bruno v State of UP, (2015) 7 SCC 178, para 40: 2015 (2) SCJ 328
[32] Shashi Kumar v Subodh Kumar, AIR 1964 SC 529
[33] Alamgir v. State (N.C.T Delhi) AIR 2003 SC 282: 2003 Cr LJ 456

corroboration to make the conclusion more precise. This is because in India, the courts dealing with criminal trials tend to impose the burden on the prosecution to prove the case beyond reasonable grounds of doubts. The corroboration which is generally circumstances happening around the performance of the act may tend to add more value and clarity about the act to the judges, so that the decision made is not going to be fettered. The justice can be seen to be rendered in its fullest form. The expert opinions and other forms of evidences which are generally not having any value under the act, yet they still have the ability to form part of the same transaction. So, these are accommodated and not left away just because they have diminished value under the head of corroboration so as to support and make the conviction strong and clear the areas concerning the facts in issue. It can be said that the corroboration gets light from "Res Gestae".

SUGGESTIONS

Corroboration is to be made as sole basis of conviction when it comes to dealing with expert opinions. Though they are not exact science, even the other evidences are not exact at times, but the human emphasis is made higher and supersedes the science even when the value of the science is greater than human witness. Developing aspects of the expert opinions are to be made sole basis of conviction even though it being of a corroborative nature.