
TESTIMONY OF INTERESTED WITNESS

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ABSTRACT

The article discusses the concept of an interested witness in India, who is a witness with a direct interest in the outcome of a case. The Indian Evidence Act of 1872 defines the rules for admitting the testimony of an interested witness in court, which includes disclosing their interest and the nature of their relationship with the parties involved. The testimony of an interested witness is subject to scrutiny, and must be corroborated by other evidence to ensure its reliability. The credibility of an interested witness can be challenged by cross-examination or other factors such as demeanor and consistency of testimony. The article also highlights the importance of the testimony of an interested witness in certain cases, where it can be crucial to determining the outcome of the case.

INTRODUCTION

A witness in a crime scene is a vital component in the administration of justice. By providing evidence related to the allegation of the offence, the witness fulfils a holy obligation of aiding the court in discovering the truth or rather facts. This is why, before presenting testimony, he or she either takes an oath in the name of God or makes a solemn statement that he or she will say the truth, the entire truth, and nothing but the truth. In our justice system, witnesses play a critical role in assisting courts in making effective judgments, ensuring that justice is given to those who need it the most. Witness is neither the accused nor the victim, he has no danger in the criminal court's judgement. The witness fulfils an essential civic role by aiding the court in determining the guilt or innocence of the accused in the case. He gives up his time and travels all the way to court to testify. Bentham stated in one of his works that a witness is a person who is considered to be the legal system's eye and ear in India, they are defined in Sections 118–134 of the Indian Evidence Act 1872¹. Section 118 of the code defines the witness as "*any individual who has observed the occurrence is competent to testify, unless the Court judges that they are unable to grasp the questions asked to them, or unable to offer reasoned responses.*"² As per the code Rational responses should not be anticipated from those, who are too young, too elderly, or disease of consisting bodily disability or have a mental disability. According to the provision, a lunatic does not have the competence to testify in general until his insanity prevents him from understanding or grasp the question asked to him/her and providing a reasoned answer of a question asked to him/her.

Another critical part of dealing with witnesses in a crime is their credibility. Witness credibility is classified into two major categories related witness and interested witness:

- Related witness - Related witness is someone who has a connection to the victim. According to the decision in *Jarnail Singh vs. State of Punjab*³, the prevalent presumption is that a related witness would not testify falsely against an innocent person because they want to see the true culprits punished. However, the credibility of such witnesses' testimony should be questioned with caution. The evidence of a

¹ Mansha Kathuria, Credibility of A Related Witness, Interested Witness and A Hostile Witness, 24 January 2022

² 5 Vepa P. Sarathi, Law of Evidence, Eastern Book Company, 2002

³ Jarnail Singh v. State of Punjab (2011)3 SCC 521.

related witness cannot be immediately rejected, as established in *Raju alias Balachandran vs. State of Tamil Nadu*⁴ and confirmed in *A. Alagupandian vs. State of Tamil Nadu*⁵, since the witness's relationship cannot be utilised to determine the validity and reliability of the testimony. In *Balraje vs. State of Maharashtra*⁶, the Supreme Court declared that there is no reason to dismiss the witnesses' version if it becomes evident after extensive study and analysis of their evidence. As a result, the veracity of the declaration is taken into account by the law. The credibility of a related witness is unaffected by their affiliation with either party, and the court should proceed with care when deciding the admissibility of its evidence, relying only on the facts.

- Interested witness – Interested witness is someone who has a direct stake in the outcome of the action. The Supreme Court said in the case of *Ganesan vs State* that a witness may be deemed "interested" only if he or she gains some profit from the outcome of a lawsuit in the decree in a civil matter, or in seeing an accused person punished.

INTERESTED WITNESS & THEIR CREDIBILITY

In the case of *Madhu vs. State of Karnataka, AIR 2014 SC 394* the term 'witness' refers to a person who is capable of giving information about pertinent events through deposition, an oral statement in writing made or provided in court, or other ways. Unless he or she comes from tainted sources, a witness is often deemed independent. Everyone is not eligible or competent to give evidence as a witness before a court unless they meet the requirements outlined in Section 118 of the Indian Evidence Act 1872. The plea of Interested witness has always been a contentious issue in the courts. The word '**interested**' implies that the witness is personally involved in seeing the accused sentenced for whatever reason. It is generally recognised that the testimony of interested witnesses is notoriously unreliable, and that some of it cannot be relied without additional evidence. Simply because a witness is a relative of the victim does not make him or her a "interested" witness. Only when a witness gains some benefit from the outcome of a civil case, such as seeing an accused person punished, can he or she be described

⁴ *Raju alias Balachandran and others vs. State of Tamil Nadu (AIR 2013 SC 983)*

⁵ *Alagupandi alias Alagupandian v. State of Tamil Nadu, (2012) 10 SCC 451*

⁶ *Balraje v. State of Maharashtra, (2010) 6 SCC 673)*

as "interested". For instance, in the case of *Takdir Samsuddin Sheikh V. State of Gujrat*⁷ a close cousin is commonly considered as a natural witness and not as interested witness because he has no personal or financial motivation to testify.

The Supreme Court answered the matter of the reliability and credibility of an interested witness' testimony in *Joginder Singh vs. State of Punjab*⁸, holding that a simple relationship cannot be used to invalidate an interested witness' claims if they are backed up by appropriate evidence. In the case of the *State of Haryana vs Shakuntala*⁹, the Supreme Court attempts to substantiate the credibility of a interested witness, as per court a witness is someone who has a direct or indirect interest in the accused who has been convicted for reasons of animus or any other oblique motive. It is an agreed fact that the evidence of an interested witness is untrustworthy and must be verified before being accepted. Furthermore, as stated in *State of Haryana vs. Shakuntala*, it is widely accepted that interested witnesses want the accused to be convicted, hence judicial caution is essential when hearing such testimony. It is a well-established concept that the testimony of an interested witness cannot be disregarded because it is political evidence. When analysing material that requires substantial corroboration, the courts, on the other hand, must use prudence. As mentioned in *Mano Dutt and Anr vs. State of Uttar Pradesh*¹⁰ and *State of Haryana v. Shakuntala*, the acceptance of evidence is dependent on two factors: first, the court's inspection, and second, prudence in appraising such evidences.

JURISPRUDENTIAL ASPECT OF INTERESTED WITNESS

The Rule of Best Evidence is one of the foundation stones of our criminal justice system, and it is one of the many rules of evidence that have evolved through time. The legal philosophy is the important criteria in criminal trials because, in India, an accused is presumed innocent until proven guilty, and the guilt of the accused must be proven beyond a reasonable doubt, not just by a preponderance of the evidence, putting the prosecution under the obligation to present the best possible evidence to prove the accused's guilt.

⁷ Takdir Samsuddin Sheikh V. State of Gujrat AIR 2012 SC 37

⁸ Joginder Singh vs. State of Punjab, 2009 Cri. LJ 2805

⁹ State of Haryana vs Shakuntala 2012 (2) RCR (Cri) 845 (SC)

¹⁰ Mano Dutt and Anr vs. State of Uttar Pradesh, (2012) 4 SCC 79

EVERY RELATED WITNESS IS NOT AN INTERESTED WITNESS

Every witness who has a connection to the deceased cannot be considered a biased witness who would falsely testify to convict the accused. As a general rule, the statements of all relevant witnesses cannot be disregarded by the courts because they are interested witnesses and close relative's testimony cannot be ruled out. The court is required to thoroughly analyse such witnesses' testimony, and if there is any doubt about their credibility, the court has the authority to discard their testimony. In most cases, a close relative would be the last to screen the genuine perpetrator and wrongly accuse an innocent person. As a result, a witness's testimony cannot be dismissed only because of their relationship. According to the court, the fact that the witness is related to the deceased or did not describe the occurrence in the same language or in a natural manner has no influence on the witness' credibility.

COMPARING UK PERSPECTIVE WITH INDIAN PERSPECTIVE

In India due to the witness's involvement in the case, the court must exercise extreme caution while hearing the interested individual testify in court and not accept it as definitive proof. The evidence cannot be disregarded, but caution should be exercised since an associated party may be interested. Similarly, in United Kingdom *Elwood vs. Western Union Telegraph*¹¹, the court found that a witness' interest in the case's subject matter is sufficient for the court to dismiss the credibility of the witness' testimony. that a witness, even though unimpeached, may have a personal interest in the issue at hand, so affecting his credibility. In *Hull vs. Littanuer*¹², however, the court held that a witness' testimony is not conclusive unless it has been refuted by other evidence and other justifiable conclusions. As a result, this case created an exception to the usual rule, stating that the conclusiveness of evidence presented by an interested witness should not be disputed unless the courts find it unbelievable. There is no reason to deny conclusiveness to a party's evidence if it is not contradicted by direct evidence or any legitimate inferences from the evidence; and it is not contrary to the probability; nor is it startling or suspicious in nature. As a result, it can be concluded that the law relating to the credibility of related and interested witnesses in India and the United Kingdom is identical, as discussed above, because India follows a common law legal system whose skeleton is built on a number of principles heavily influenced by English common law principles.

¹¹ Elwood vs. Western Union Telegraph 45 N.Y. 549, 553

¹² Hull v. Littauer, 162 N.Y. 569, 57 N.E. 102

CONCLUSION

Relationship has no effect on a witness' credibility. When the statement of a witness known to the affected person is trustworthy, dependable, trust worthy, admissible under the law, and confirmed by other witnesses or documentary evidence of the prosecution, there is little reason for the court to reject such evidence. Before reaching a conclusion, his statement should be properly examined and appreciated. It is critical that the court retain a good judicial attitude toward victim justice, and that when evaluating the reliability of a particular piece of evidence or testimonial, the courts exercise necessary care and caution and only look for the truth. Bias or presumptions must be avoided, and the courts should investigate. The researcher believes that the legitimacy and acceptability of the evidence provided by interested and related witnesses is dependent on the truthfulness of their claims. However, it is critical to highlight that the testimony cannot be disregarded because of the witness's relationship; hence, the credibility of evidence is not based on the person's relationship or purpose, but on truth, which should be verified considerably.

Furthermore, the researcher believes that the court attitude toward victim justice is an important issue to consider when evaluating the reliability of the witnesses' evidence. The regulations in India governing competence and witness protection are up to date and have been designed with everyone in mind. The judiciary has enhanced this statute through interpretations, broadening its scope and applicability. It makes little difference whether a person can communicate or not; if he can comprehend and respond to questions, he can serve as a witness. A witness's credibility is unaffected by their relationship. When the testimonies of witnesses known to the affected person are credible, reliable, trustworthy, admissible under the law, and verified by other witnesses or prosecution documentary evidence, the court has no reason to dismiss such evidence. Before reaching a conclusion, his statement should be thoroughly examined and comprehended. As a result, it is believed that proper care and caution, among other things, are required when appreciating evidence supplied by linked and interested witnesses without harassing the witnesses. It is vital that the court maintain a good judicial attitude toward victim justice, and that when examining the credibility of a specific piece of evidence or testimony, the courts use due care and only seek the truth. Prejudice or presumptions must be avoided, and the courts must conduct extensive investigations into these matters.

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