
BRIEF ANALYSIS OF CIRCUMSTANTIAL EVIDENCE

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ABSTRACT

This paper revolves around circumstantial evidence which is said to be one of the debatable elements of the Indian criminal justice system. Circumstantial evidence is a kind of indirect evidence which does not directly prove anything but the chain of facts or events of the case itself are in a manner that they become reasonable and sufficient to back the claim put up by any of the either parties during the trial. The introduction starts with a definition and explanation of Section 3 of the Indian Evidence Act which gives us a broad definition of Evidence under the Indian law.

After the introduction, we briefly understand the difference between direct and indirect evidence. Circumstantial evidence is the prime example of Indirect Evidence so it is necessary to explore these two major types of evidence. Circumstantial evidence is also explicitly explained with brief examples for a better understanding and comprehension.

This paper also gives a literature review on the topics and takes up thoughts of famous jurists like Bentham and Burke, different judgments and opinions from around the globe. Bentham and Burke were very adamant on their views which eventually made an impact on many other legal thinkers and after their opinion on the subject matter, many other jurists and legal theorists started putting their beliefs forward.

As the paper comes to an end, circumstantial evidence through the years in Indian courts is highlighted and analysed which include many landmark judgements such as Umedbhai Jadavbhai giving us an opinion on circumstantial evidence in late 70's, Bodh Raj @ Bodha And Ors V. State of Jammu and Kashmir which gives us a clear picture on the conditions that should be put into consideration while talking about circumstantial evidence etc. The conclusion, at last, presents a summary of the whole paper along with a brief diagnosis of the subject matter.

Introduction

Evidence plays a crucial role when we talk about justice in the area of law. Evidence forms the basis for decisions in all types of legal processes, including criminal trials, civil lawsuits, and other disputes. It includes many types of information, facts, or data that are offered to prove the veracity of a claim or back up a certain allegation. The ideas of fairness, due process, and the pursuit of the truth are profoundly ingrained in the idea of evidence. It enables a methodical and organised approach to resolving conflicts and reaching wise judgements. It guarantees that judgements are supported by trustworthy data, enhances the legitimacy of the judicial system, and promotes the ideals of justice and fairness.

Section 3 of the Indian Evidence Act¹ gives us a definite meaning of Evidence which says that Evidence can be defined as any document, statement or electronic/visual feature which the witnesses, prosecution or defence must put before the court with relation to the facts being debated, or which the court permits.

There are various types of evidence which we come across during trials or cases. These types of evidence can be divided into many categories like Documented evidence, testimonial evidence, direct evidence, indirect evidence, judicial and non-judicial evidence².

Technology and scientific technique improvements have had a substantial historical impact on the field of evidence. Investigations and trials have been transformed by DNA analysis, forensic procedures, and digital evidence, providing a more detailed and precise evaluation of the facts and because of these developments in the field of evidence, We can see more and more kinds of evidence being brought up in order to give them a meaning in the court.

In this paper, we shall take up one of the most debatable and crucial types of evidence during a trial that is Circumstantial Evidence, commonly known as an Indirect evidence.

Direct and Indirect Evidence

As we discussed earlier, there are various types of evidence a party can rely on during the

¹ Indian Evidence Act 1872, s 3.

² Sristi Nimodia, 'Types of Evidence' <[https://www.legalserviceindia.com/legal/article-4657-types-of-evidence.html#:~:text=Evidence%20means%20and%20includes%20Oral,the%20Court%20\(documentary%20evidence\)](https://www.legalserviceindia.com/legal/article-4657-types-of-evidence.html#:~:text=Evidence%20means%20and%20includes%20Oral,the%20Court%20(documentary%20evidence)>)> accessed 19 Sep. 2023.

period of a trial. One of the types of evidence is Documented evidence. Documented Evidence are basically true and real documents or anything which can be given out from any inspection are known as documented evidence. Testimonial evidence is a form of personal evidence which is given by the witness orally. These oral testimonies can also make a great impact on the whole case as these come directly from one's statements which are under oath and hold a lot of value in the realm of law. Documented and Personal Evidence are examples of direct evidence³.

Circumstantial Evidence, on the other hand, is the prime example of indirect evidence. Indirect Evidence are the evidence which are not physically or orally given in court but are proved by their relevance in that particular case.

Contrary to circumstantial evidence, where a judgement or inference must be reached with the numerous case-relevant facts, direct evidence provides direct proof of any wrongdoing. However, there are certain cases that were only solved through circumstantial and indirect evidence since there was no direct proof in the case⁴.

These are a few of the common sorts of evidence used in court cases. It is significant to remember that each sort of evidence's admissibility and weight may differ based on the jurisdiction, the guidelines for the submission of evidence, and the particular facts of the case.

Circumstantial Evidence

Circumstantial evidence is a kind of indirect evidence which does not directly prove anything but the chain of facts or events of the case itself are in a manner that they become reasonable and sufficient to back the claim put up by any of the either parties during the trial⁵. In other words, A notion with a large body of supporting evidence is typically considered circumstantial evidence. Despite the fact that it is not a part in the action, it gives the court the ability to make some assumptions or conclusions that come very close to identifying additional facts that are directly related to the timeline and transaction of the incident. It is also to be noted that all

³ Archismaan Tyagi, Mehu Mohan, 'Distinction between direct evidence and circumstantial evidence' (2021) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3838902> accessed 19 Sep. 2023.

⁴ Shivi Mishra, 'A Study of Direct Evidence and Circumstantial Evidence with Special Reference to Aarushi Talwar Case', *International Journal of Law Management and Humanities*, (2021) Vol. 4 Iss 3 955. <<https://www.ijlmh.com/paper/a-study-of-direct-evidence-and-circumstantial-evidence-with-special-reference-to-aarushi-talwar-case/>>.

⁵ Cornell Law School, 'Circumstantial Evidence' (Cornell Law School, Jan 2022) <https://www.law.cornell.edu/wex/circumstantial_evidence> accessed 19 Sep. 2023.

courts, including the Supreme Court, are required to consider all the relevant circumstances before convicting anybody based solely on circumstantial evidence; these circumstances must clearly show the accused's guilt and must leave no room for doubt⁶.

One example of circumstantial evidence can be described as when an accused person is seen at the same spot as the victim after 10 minutes in a cctv camera footage or even witness testimonies stating the accused person's connection with the victim and his/her strange behaviour around the time of the offence.

The most common example of circumstantial evidence is the famous case of Aarushi Talwar where only circumstantial evidence was used to support the conviction. In this case, the situation was so baffling that the court did neither find any substantial direct evidence nor it could put a full fledged chain of events which would've led to the conviction. Even the court was unclear who exactly committed the murders of Aarushi and servant Hemraj, but it was suspected and concluded that Dr. Rajesh Talwar (Aarushi Talwar's father) and his wife, Dr. Nupur Talwar (Aarushi Talwar's mother) assisted him in destroying the evidence.

Literature Review

Circumstantial Evidence has been in discussion since decades. We can see a lot of opinions being given on circumstantial evidence in classical law and jurisprudence. Many theorists like Bentham and Burke have also given their interpretation on the subject matter. Jewish classical law was not in favour of circumstantial evidence as permissible evidence⁷. According to Judaism, testimonies of witnesses should be given consideration and not the circumstances that direct to someone's guilt. Testimonies of two or more persons witnessing the crime being committed by the accused would solely lead to the person's conviction⁸. This would have played as a huge drawback in the Jewish law as there had been instances where there would not have been any witnesses to crimes that might have been reported. Having a prima facie proof on each and every crime is not a practical aspect to assume. But if we look at the contrary side of the argument, due to lack of technology and other relevant resources, proving an offence

⁶ Sudershani Ray, 'Circumstantial Evidence in India' <<https://www.legalserviceindia.com/article/I136-Circumstantial-Evidence.html>> accessed 19 Sep. 2023.

⁷ Max May 'Jewish Criminal Law and Legal Procedure', 31 Am. Inst. Crim. L. & Criminology 438 (1940-1941)

⁸ Kevin John Heller, 'The Cognitive Psychology of Circumstantial Evidence' Michigan Law Review (2006), Vol 105.

only on the basis of circumstantial evidence would at that time be equal to narrating a story which in most cases even the prosecution would not have been a part of.

When we talk about philosophers and thinkers in jurisprudence of law, Bentham and Edmund Burke were two renowned thinkers who adopted and talked about circumstantial evidence⁹. Burke and Bentham both criticised evidentiary standards as being unreasonably restrictive. Burke, the prosecuting attorney in a case that was already complicated and in which he had a keen interest, just wanted to move on with it. Bentham wanted legal trials to resemble open and rigorous reasoning. Additionally, if not fully, the philosopher's opposition to the regulations was compatible with his empiricism.

According to Bentham, even if indirect evidence or direct evidence may be untruthful, when it comes to circumstantial evidence, the more we dig deeper into circumstances happening, the more there are chances to be exposed and disproved by the opposing contention whereas Burke says that it is beyond the scope and compass of human skills to create a series of events that will be so interconnected.

Bentham and Burke were very adamant on their views which eventually made an impact on many other legal thinkers. The persistent falsifiers known as literary realists found the theory that circumstantial evidence could not be easily rejected to be of most long-term benefit. Having just a one-sided opinion from both, for and against perspectives, circumstantial evidence to be a very debatable topic in early times. It was after the case of *Holland V United States*¹⁰ in 1954 that changed the legal view of looking at circumstantial evidence. According to this ruling, the only difference between direct and indirect, especially, circumstantial evidence is the degree to which it affects the admissibility of the evidence during court proceedings.

In the cases of circumstantial evidence, the depth and the connection between the events is something which is extremely important. A circumstantial evidence can have more than one view or perspective. In the case of *Pradeep Kumar V State Of Chhattisgarh*, the Supreme Court of India has recently ruled that the view favouring the accused shall be preferred in situations

⁹ Alexander Welsh, 'Burke and Bentham on the Narrative Potential of Circumstantial Evidence, (1990), Vol. 21, No. 3

¹⁰ *Holland V United States* (1954) 348 U.S. 141

where both perspectives are possible while depending on circumstantial evidence¹¹. This is necessary in order to bring in the balance within the justice system specially when we talk about a case exclusively grounded on circumstantial evidence.

Circumstantial evidence through the years in Indian courts

In the case of "*Hanumant v. State of M.P.*"¹², (1952), the court said that It is important to keep in mind the rules that are particularly relevant when dealing with circumstantial evidence. In such circumstances, there is always a chance that supposition or suspicion could replace objective evidence. When there is simply circumstantial evidence, the circumstances from which the verdict of guilt is to be drawn must first be thoroughly determined, and all the facts thus established must only be consistent with the belief of the accused's guilt. It was further said that there must be a convincing chain of evidence demonstrating the accused person's guilt beyond a reasonable doubt and that there is no plausible explanation for believing that the accused is innocent.

*Umedbhai Jadavbhai v. State of Gujarat*¹³, (1978) is a case well known for its opinion regarding circumstantial evidence. In this case it was given that in a case grounded on circumstantial evidence, all the circumstances cited by the prosecution must unavoidably and solely point to the accused's guilt, and there should be no event that could be rationally viewed as consistent with the accused's innocence. The Court will need to consider the overall impact of every factor in a particular case and evaluate them as a cohesive whole, even in cases where circumstantial evidence is used. There should be no gap in the facts represented by the prosecution otherwise it might lead to the prosecution's downfall.

*Ramawati Devi v. State of Bihar*¹⁴, (1983) established that there should be a connection between a dying declaration and the facts of the instance. It was said that a written or oral statement made by a deceased person on the reason for his death or regarding any of the circumstances of the transaction that led to his death enters evidence under "Section 32 of the Evidence Act" in cases where the reason for the person's death is in question. Such a pronouncement, also known as a "dying declaration," was made by the deceased. Each

¹¹Pradeep Kumar v. State of Chhattisgarh, (2023) 5 SCC 350

¹² Hanumant v. State of M.P., (1952) 2 SCC 71

¹³ Umedbhai Jadavbhai v. State of Gujarat, (1978) 1 SCC 228

¹⁴ Ramawati Devi v. State of Bihar, (1983) 1 SCC 211

statement will unavoidably have a different evidential value or weight depending on the particular facts and circumstances of each case. Depending on the specifics of the case, it can be appropriate to convict a defendant solely on the basis of a dying declaration.

“*Bodh Raj @ Bodha And Ors vs State Of Jammu And Kashmir on 3 September, 2002*”¹⁵ gives us a clear picture on the conditions that should be put into consideration while talking about circumstantial evidence. It is not required to have physical proof of a crime in order to prove it; rather, it must always be established through direct visual evidence by questioning witnesses in front of the court. Circumstantial evidence can also be used to establish the offence. To put it another way, circumstantial evidence is not directly related to the point at hand but instead consists of evidence of a number of unrelated facts that are so closely related to the fact at hand that when they are all considered, they produce a chain of circumstances from which it is possible to lawfully infer or presume the existence of the fundamental reality.

In cases involving circumstantial evidence, it was decided that the burden of proof lies with the prosecution to show that the chain of facts is full and that a false defence or plea will not be able to remedy the prosecution's defect of a gap.

The conditions that were laid down in this case were:

1. The circumstances from which guilt is to be inferred must be fully established. The relevant circumstances must be proven beyond a reasonable doubt.
2. The circumstances must be of a decisive type and tendency
3. The facts proven must only be consistent with the accuser's guilt. that is, they must not be able to be explained by any other possibility than the accusation of guilt.
4. They must eliminate every other possibility than the one that has to be proven
5. The circumstances should also be conclusive in nature

In the latest case of *Laxman Prasad @Laxman v.State of Madhya Pradesh*¹⁶, it was finally established that the conviction should be overturned if the High Court discovers one of the

¹⁵ *Bodh Raj @ Bodha And Ors vs State Of Jammu And Kashmir, 2002 Supp(2) SCR 67*

¹⁶ *Laxman Prasad V State of Madhya Pradesh, (1984) 4 SCC 116*

linkages to be lacking and unproven in light of the relevant case law. In a case where there is a usage of circumstantial evidence, the chain must be flawless and smooth in order to prove the accused person's guilt and should rule out any other possible theories of the crime.

Conclusion

As we have already discussed in the paper, evidence is an essential part for a trial to proceed in a proper manner. In the realm of law, the foundation of justice in the judicial system is evidence, which gives rise to defensible judgments. Even though it is indirect, circumstantial evidence can be convincing when it creates a clear sequence of events that credibly supports a claim.

Legal precedents like *Hanumant v. State of M.P*, *Umedbhai Jadavbhai v. State of Gujarat* and recently *Laxman Prasad v. State of Madhya Pradesh* emphasises the requirement for an unbroken chain of facts pointing only to the accused's guilt. This form of evidence has evolved over time. These cases also highlight how crucial a perfect chain is to proving guilt beyond a reasonable doubt. In contemporary legal practice, circumstantial evidence remains a valuable tool for achieving justice.

However, it must always be carefully examined to make sure there are no plausible alternative explanations or doubts. To preserve the rights of the accused and uphold the principles of equity and due process in the legal system, it is crucial to balance the significance and admissibility of evidence, particularly when it is circumstantial.