
SECURING FAIR TRIALS IN INDIA: THE INDISPENSABLE CONNECTION BETWEEN EVIDENCE ACT AND CRPC

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ABSTRACT

The interplay between the Code of Criminal Procedure of 1973 (CrPC) and the Indian Evidence Act of 1872 (IEA) is pivotal in ensuring fair trials within India's criminal justice system. This research delves into the legal framework provided by these two procedural laws, highlighting their nature as *lex fori*, procedural laws, and adjective laws. The interaction between the Code of Criminal Procedure of 1973 and the Indian Evidence Act of 1872 is essential for securing fair trails in India. This research examines that for securing the principle of justice and ensuring fair trails how the provisions of the Indian Evidence Act and CrPC work in sync by analysing various legal texts and leading case laws and understand their interconnection. It examines the interconnectivity of specific provisions from the CrPC and IEA, such as Sections 162 and 27, Sections 311 and 138, Sections 162 and 145, Sections 161(2) and 132, and Sections 154 and 157, to understand how they work in tandem to secure justice. The analysis reveals that while the CrPC outlines the procedures for conducting trials, the IEA governs the admissibility, relevance, and evaluation of evidence. Through the examination of leading case laws, the study demonstrates how these provisions balance the rights of the accused with the need for effective prosecution, ensuring that trials are conducted fairly and justly. The research concludes that the symbiotic relationship between the CrPC and the IEA is essential for maintaining the integrity of the judicial process and for upholding the principles of justice in India.

Introduction

According to Jurist Salmond, Law may be defined as a “body of principles recognised and applied by the state in the administration of justice”. In a general way, Law means a set of distinct legal statutes that are enforced by the courts for regulating the government, maintaining the relationship between legislature, executive and judiciary and maintaining a balance between the individual interests/rights and those of the society. Law is essential for the country to prosper. The statutes which are made by man are enforced by man on the man. Some customs served as laws even in the distant past. Stated differently, the law might be regarded as the ultimate force that serves as a catalyst between society and unlawful activities. Law is a tool of positive social change and serves as a means of changing present societal arrangements. There are mainly two types of law: one is Criminal Law, and the other one is Civil Law. Criminal law deals with crimes that are committed against society as a whole whereas civil law is a general law that deals with disputes that are on an individual or organisational level. Now Criminal law has two types: Substantive Law and Procedural Law. Substantive law means statutory rules that specify standard social activities as well as the punishments for violating them whereas Procedural Law defines the procedure that courts must take into consideration to decide civil, criminal, and administrative problems. It is a set of principles and instructions that control how cases go through the legal system. This research focuses on the interaction of Crpc and Indian Evidence Act which are the two types of Procedural Laws.

1. *Legal Framework*

1) **Indian Evidence Act, 1872-** The Indian Evidence Act ,1872 is a law that regulates the rules of evidence in Indian Courts as there was a need for a comprehensive framework that provides procedures for determining the relevance of evidence, admission, and evaluation of evidence in courts. The nature of the act is as follows:-

- a. **Lex fori-** One of the natures of IEA is that it is lex fori in India, which means that it governs the process of admission and evaluation of evidence in the courts. It applies to all types of trials in the court whether civil or criminal.
- b. **Procedural Law** – It is a procedural law as it provides the basis how evidence is to be presented and assessed during legal proceedings. It lays out the procedure for the admission and evaluation of the evidence. Sections of the IEA

deal with the procedures for examining witnesses, handling documents, and admitting various forms of evidence.

- c. **Adjective Law-** It is an adjective law as it outlines the methods and procedures for presenting and challenging evidence in courts. It consists of rules regarding the burden of proof, the relevance of evidence, and the examination of witnesses.

2) **Criminal Procedure Code, 1973-** The Code of Criminal Procedure, 1973 is a law that describes how the criminal justice system works as there was a need for a comprehensive framework that describes in detail how crimes should be investigated, tried, and punished. The Nature of the act is as follows:-

- a. **Lex fori (Law of Court/Law of Land-** It is the law applied by courts in criminal matters within India to ensure that uniform procedures are followed. It applies to all courts in India dealing with criminal cases, ensuring uniform procedures are followed throughout the country.
- b. **Procedural Law-** It is a procedural law as it lays out the processes and procedures of the working of criminal proceedings and provides a mechanism for the investigation of crime, identifying suspected criminals, collecting evidence, determination of guilt or innocence of the accused, and the imposition of penalties and punishments.
- c. **Adjective Law-** It is an adjective law as provides the framework within which the substantive criminal law (Indian Penal Code) can be enforced and sets out the steps to be followed to prosecute and adjudicate criminal matters.

2. ***Interconnection Between Evidence Act and CrPC***

For securing fair trials in the Criminal Judicial system, it is essential to interpret the interconnectivity of the provisions of Indian Evidence Act, 1872 and the Code of Criminal Procedure, 1973 which should be applied together. While the CrPC describes how the trials should be conducted in the courts on the other hand the IEA establishes the process for the admissibility, relevance, and evaluation of evidence. Collectively, they ensure that cases are

handled justly and fairly, securing a balance between the rights of the accused and the needs of the victims and society.

1) Section 162 of CrPC and Section 27 of IEA¹:

- a. **Section 162(1) of CrPC-** This section states that the statements of witnesses which are made to police officers during the investigation must not be signed by the witnesses and are not admissible in court as evidence.
- b. **Section 27 of IEA-** This section is an exception to section 162 of CrPC as it allows the admission of that part of the confession statement which is made by the accused in police custody which leads to the discovery of a fact.
- c. **Interconnection-** The interconnection between these two sections is Section 162 CrPC aims to prevent coercion and undue influence by the police by disallowing the use of such statements in court whereas Section 27 of IEA balances this by admitting statements that lead to a verifiable and independent discovery of evidence, thus ensuring that the information has an inherent reliability. They work together to balance the need for investigation with the protection of the accused's right against self-incrimination.

d. Case Laws

- a) **Aghnoo Nagesia vs State of Bihar (1966)²-** The Supreme Court held that a confessional statement, if it does not lead to the discovery of a fact, is inadmissible under Section 162 CrPC and not protected by Section 27. This judgment established the limitation of Section 27 in relation to Section 162.
- b) **Sunil Clifford Daniel vs State of Punjab (2012)³-** The Supreme Court held that Section 27 serves as an exception to the general prohibition under Section 162 CrPC. It was observed that the admissible portion of a statement under Section 27 is only that part which distinctly relates to

¹ The Code of Criminal Procedure, 1973 and The Evidence Act, 1872

² Aghnoo Nagesia vs State of Bihar, AIR 1966 SC 119

³ Sunil Clifford Daniel vs State of Punjab, 2012 (11) SCC 205

the fact discovered because of the information provided by the accused. The Court noted that the 'discovery of fact' includes the discovery of material objects as well as the knowledge about the location or condition of such objects. The Court underscored that while Section 27 allows for certain statements to be admissible, the information must be voluntarily given and not obtained through coercion or torture.

2) Section 311 of CrPC and Section 138 of IEA⁴:

- a. **Section 311 of CrPC-** This section allows the court to summon any person as a witness or recall and re-examine any person already examined if it considers their evidence to be essential for a just decision in the case. It emphasizes the court's duty to discover the truth and ensure justice is served.
- b. **Section 138 of IEA-** This section deals with the order of examining a witness. This section defines the order of the examination of witnesses: the initial examination of a witness by the prosecution or defense who calls them (examination-in-chief), the examination of the witness by the opposing party (cross-examination) and the subsequent examination by the party who called the witness, to clarify matters arising from the cross-examination (re-examination).
- c. **Interconnection-** The CrPC doesn't explore into the details of how to examine witnesses here the evidence act comes into play. Section 311 of CrPC allows the court to summon and re-examine witnesses when necessary, ensuring that all relevant facts are considered whereas Section 138 of IEA provides the structure for the thorough examination of those witnesses, ensuring their testimonies are examined through examination-in-chief, cross-examination, and re-examination. The working together of these two sections upholds the principles of justice. The court, while following the CrPC for summoning

⁴ The Code of Criminal Procedure, 1973 and The Evidence Act, 1872

witnesses, ensures the examination adheres to the framework laid out in the Evidence Act.

d. **Case Laws**

- a) **Rajaram Prasad Yadav Vs State of Bihar & Anr. (2013)⁵**- The Supreme Court highlighted that Section 311 CrPC gives the court wide powers to recall witnesses, stating that these powers are intended to ensure that the right to a fair trial is not hampered. This ties directly to Section 138 of the Evidence Act, which dictates the manner of examining recalled witnesses.
- b) **Shri Mohd. Tariq vs Jaspal Singh & Ors.(2016)⁶**- Himachal Pradesh High Court held that Section 311 of the CrPC and Section 138 of the Evidence Act work together during a criminal trial. When considering the re-examination of a witness under Section 138, it must align with the guidelines of Section 311 CrPC. The court can only use Section 311 CrPC to ensure a just decision in the case. This section allows the court to summon, examine, recall, or re-examine any person at any stage of the trial if it is necessary for achieving justice. When recalling or re-examining a witness, the court must determine if it is essential for a fair and just decision. The use of this power must be done carefully, thoughtfully, and judicially.

3) **Section 162 of CrPC and Section 145 of IEA⁷:**

- a) **Section 162 of CrPC**- This section states that statements made to the police during an investigation cannot be signed by the person making them and are not admissible in evidence at the trial except for contradictions.
- b) **Section 145 of IEA**- This section provides an exception to section 162 of CrPC, allowing cross-examination by of witnesses concerning previous statements

⁵ Rajaram Prasad Yadav vs State of Bihar & Anr., 2013 (14) SCC 461.

⁶ Shri Mohd. Tariq vs Jaspal Singh & Ors., 2016 SCC ONLINE HP 3359

⁷ The Code of Criminal Procedure, 1973 and The Evidence Act, 1872

made by them writing or reduced into writing. It provides the right to cross-examine witnesses.

c) Interconnection- The interconnection between Section 162 of CrPC and Section 145 of IEA is that Section 162 of CrPC, by its own procedure, attracts the provisions of Section 145 of the Evidence Act. Section 162 of CrPC restricts the use of witness statements during trial, but Section 145 of the Evidence Act allows the accused (and with court permission) for specific circumstances use the statements for cross-examination and contradiction. The interplay between these provisions ensures fairness and transparency in criminal trials.

d) Case Laws

a) Tahsildar Singh & Anr. vs State of Uttar Pradesh (1959)⁸- A statement to the police could be used under section 162 of the Code only for the purpose of contradicting a statement in the witness box under the second part of section 145 of Evidence Act, but it could not be used for the purpose of cross-examining the witness under the first part of s. 145. A statement made to the police but not reduced to writing, could not be used for any purpose, not even for contradiction.

b) Vikas vs State (2020)⁹- The Delhi High court clarified that statements made to the police cannot be read as substantive evidence under section 162 of CrPC, but a witness can be contradicted with their previous statement under section 145 of IEA. Omission to mention a fact in the previous statement is considered a contradiction, and the witness needs to be confronted with it.

4) Section 161(2) of Crpc and section 132 of IEA¹⁰:

a) Section 161(2) of Crpc- This provision states that a person being examined by the police is not bound to answer any questions that would expose them to a

⁸Tahsildar Singh & Anr. vs State of Uttar Pradesh ,AIR 1959 SC 1012

⁹ Vikas vs State on 19 October 2020, www.indiankanoon.org

¹⁰ The Code of Criminal Procedure, 1973 and The Evidence Act, 1872

criminal charge or to a penalty or forfeiture.

b) Section 132 of IEA- This section provides that a witness shall not be excused from answering any question on the ground that the answer may incriminate them in the court but also provides protection from the use of such compelled answers against them in a criminal case, except in the case of lie.

c) Interconnection- These two provisions are connected because of the delicate balance between the right to remain silent during an investigation and the prohibition against being forced to testify against oneself. While a person may refuse to answer questions that could lead to self-incrimination during a police investigation under Section 161(2) of the CrPC, Section 132 of IEA guarantees that a witness cannot refuse to answer questions in court on the same grounds and grants them immunity from having their forced answers used against them in a criminal case except perjury.

d) Case laws

a) Selvi & Ors vs State of Karnataka & Anr (2010)¹¹- The Supreme Court held that even though Section 161(2) CrPC casts a wide shielding net to protect the formally accused persons as well as suspects and witnesses during the investigative stage, but Section 132 of the Evidence Act limits the applicability of this protection to witnesses during the trial stage.

b) Nandini Satpathy v. P.L. Dani (1978)¹²- The court held that Section 161(2) CrPC grants a right like the protection against self-incrimination provided under Article 20(3) of the Constitution. The ruling reinforced that individuals cannot be compelled to answer questions that would expose them to criminal liability.

¹¹ Selvi & Ors vs State of Karnataka & Anr. ,2010 (7) SCC 263

¹² Nandini Satpathy v. P.L. Dani, 1978 2 SCC 424

5) Section 154 of CrPC and Section 157 of IEA¹³:

- a) **Section 154 of CrPC-** This section deals with the information in cognizable cases and is commonly known as the provision for lodging a First Information Report (FIR). It requires that information relating to the commission of a cognizable offense, if given orally to an officer in charge of a police station, must be reduced to writing by the officer and read over to the informant. After the informant signs the document, it is entered in a book prescribed by the state government. The FIR is a crucial piece of evidence as it is the first account of the offense reported to the police.
- b) **Section 157 of IEA-** This section provides the corroboration of the testimony of a witness. It states that the former statements of a witness may be used to corroborate their testimony in court if the statement relates to the same fact, and it was made at or near the time when the fact took place, in the presence of a person with authority over the matter, or to any person who would naturally be complained to under the circumstances. This provision is important for establishing the consistency and credibility of a witness's testimony.
- c) **Interconnection-** The interconnection between these two sections is that an FIR recorded under Section 154 of the CrPC is not itself a substantive piece of evidence but can serve as a former statement for the purpose of corroborating the testimony of the informant under Section 157 of the IEA. The FIR, if recorded promptly and without undue delay, can lend support to the informant's testimony during the trial.
- d) **Case Laws**
 - a) **Bheru Singh vs State of Rajasthan (1994)¹⁴-** The Supreme Court held that first information report recorded under Section 154 CrPC is not a substantive piece of evidence. It may be used to corroborate the informant under Section 157 of the Evidence Act or to contradict him

¹³ The Code of Criminal Procedure, 1973 and The Evidence Act, 1872

¹⁴ Bheru Singh vs State of Rajasthan, 1994 SCC (2) 467

under Section 145 of the Evidence Act in case the informant appears as a witness at the trial.

- b) Miyana Hasan Abdulla & Anr. vs State of Gujarat (1961)¹⁵**- Section 154 of CrPC provides that if the information is given orally it shall be reduced to writing by the officer in charge of the police station or under his direction and be read over to the informant and shall be signed by the persons giving it and the FIR itself cannot become evidence automatically but it can go in as evidence only to corroborate the evidence of the complainant or the person who has given information and his previous statement made at the police station immediately after the commission of the offence would certainly be admissible under Section 157 of IEA.

3. *Analysis*

The analysis of the interaction between the Code of Criminal Procedure of 1973 (CrPC) and the Indian Evidence Act of 1872 (IEA) reveals a complex yet harmonious relationship that is crucial for the administration of justice in India. The CrPC and IEA, as procedural laws, play a pivotal role in ensuring that criminal trials are conducted fairly and that the rights of the accused are protected while also upholding the interests of the victims and society.

- i. Section 162 of CrPC and Section 27 of IEA:** The analysis shows that Section 162 of the CrPC, which prohibits the use of statements made to the police during investigation as evidence, is balanced by Section 27 of the IEA, which allows the admission of confessions leading to the discovery of facts. This interplay ensures that while the accused is protected from coerced confessions, the reliability of confessions leading to tangible evidence is recognized.
- ii. Section 311 of CrPC and Section 138 of IEA:** The analysis indicates that Section 311 of the CrPC, empowering the court to summon and re-examine witnesses, is complemented by Section 138 of the IEA, which outlines the order of examination of

¹⁵ v Miyana Hasan Abdulla & Anr. vs State of Gujarat, AIR 1962 GUJARAT 214

witnesses. Together, these provisions enable the court to thoroughly examine witnesses, ensuring that all relevant facts are brought to light.

- iii. **Section 162 of CrPC and Section 145 of IEA:** The analysis reveals that while Section 162 of the CrPC restricts the use of witness statements made to the police, Section 145 of the IEA allows for the cross-examination of witnesses based on their previous statements. This ensures that inconsistencies can be highlighted, promoting transparency and fairness in trials.
- iv. **Section 161(2) of CrPC and Section 132 of IEA:** The analysis shows that the right to silence during police examination under Section 161(2) of the CrPC is balanced by the compulsion to testify in court under Section 132 of the IEA, with immunity from self-incrimination. This delicate balance ensures that witnesses cannot evade testifying while also protecting them from self-incrimination.
- v. **Section 154 of CrPC and Section 157 of IEA:** The analysis demonstrates that the First Information Report (FIR) under Section 154 of the CrPC, though not substantive evidence, can be used to corroborate the testimony of the informant under Section 157 of the IEA. This interconnection underscores the importance of the FIR as an early account of the offense that can support the informant's testimony.

The case laws cited in the text provide practical examples of how these provisions have been interpreted and applied by the courts. They illustrate the nuanced approach taken by the judiciary to balance the rights of the accused with the need for effective prosecution, ultimately ensuring that justice is served. The analysis concludes that the cooperation between the CrPC and the IEA is essential for maintaining the integrity of the judicial process and for securing fair trials in India.

Conclusion

In conclusion, the interplay between the Code of Criminal Procedure of 1973 (CrPC) and the Indian Evidence Act of 1872 (IEA) is fundamental to the administration of justice and the conduct of fair trials in India. The analysis of various legal texts and leading case laws has demonstrated that the procedural protections guaranteed under the CrPC and the evidentiary values set forth in the IEA are intricately connected and mutually reinforcing. The provisions

of the CrPC, such as those related to the investigation process, the examination and cross-examination of witnesses, and the recording of statements, are complemented by the IEA's provisions on the admissibility, relevance, and evaluation of evidence. Together, they ensure that the rights of the accused are protected while also upholding the interests of the victims and society at large. The case laws examined, such as *Aghnoo Nagesia vs State of Bihar* where the court held that a confessional statement, if it does not lead to the discovery of a fact, is inadmissible under Section 162 CrPC and not protected by Section 27. This judgment established the limitation of Section 27 in relation to Section 162. In *Rajaram Prasad Yadav Vs State of Bihar & Anr.*, the Supreme Court highlighted that Section 311 CrPC gives the court wide powers to recall witnesses, stating that these powers are intended to ensure that the right to a fair trial is not hampered. This ties directly to Section 138 of the Evidence Act, which dictates the manner of examining recalled witnesses. In *Vikas vs State*, the Delhi High court clarified that statements made to the police cannot be read as substantive evidence under section 162 of CrPC, but a witness can be contradicted with their previous statement under section 145 of IEA. Omission to mention a fact in the previous statement is considered a contradiction, and the witness needs to be confronted with it. In *Selvi & Ors vs State of Karnataka & Anr.*, the Supreme Court held that even though Section 161(2) CrPC casts a wide shielding net to protect the formally accused persons as well as suspects and witnesses during the investigative stage, but Section 132 of the Evidence Act limits the applicability of this protection to witnesses during the trial stage. In *Miyana Hasan Abdulla & Anr. vs State of Gujarat*, Section 154 of CrPC provides that if the information is given orally it shall be reduced to writing by the officer in charge of the police station or under his direction and be read over to the informant and shall be signed by the persons giving it and the FIR itself cannot become evidence automatically but it can go in as evidence only to corroborate the evidence of the complainant or the person who has given information and his previous statement made at the police station immediately after the commission of the offence would certainly be admissible under Section 157 of IEA. These cases illustrate how the courts have interpreted and applied these provisions to maintain the integrity of the judicial process. The conclusion of this research underscores the importance of the symbiotic relationship between the CrPC and the IEA in ensuring that criminal trials are conducted fairly and justly, thereby upholding the rule of law and the principles of justice in India.