LEGALFOXES LAW TIMES

IMPORTANCE OF CIRCUMSTANTIAL EVIDENCE

By Keshav Sethi

ABSTRACT

The topic taken "*IMPORTANCE OF CIRCUMSTANTIAL EVIDECE IN WITH RESPECT TO CRIMINAL LAW IN REFERNCE WITH SUPPORTING CASES*" is because the law of circumstantial evidence is commonly taken with misconception that the evidentiary value of circumstantial evidence is not as strong as the direct evidence, which is some cases are true but one should not forget that during the trial where there is lack of evidence it the help of chain of events that allows the court to fill the gap and to come to conclusion without a shadow of doubt drawing the guilt of the accused. As the research go further deep in the present research paper I will be able to established that the not only the evidentiary value of circumstances are regarded to me equivalent to direct evidence along with the precaution which should be taken both by the counsels and the honorable courts while relying on circumstantial evidence. In earlier times judgments of acquittal or conviction of an accused person was rarely based entirely on circumstantial evidence but as the law progressed it was safe to say that the decisions based on circumstantial evidence not only allow the courts to understand various new aspects of cases of different facts and grounds but also was able to assist courts in drawing the guilt of the accused beyond a shadow of reasonable ground. The courts in several cases have laid down the guild lines which are later discussed ahead in accordance with various cases. With my findings I will be able to outline that circumstantial evidence which is playing a major role especially in criminal law.

"*Witness may lie but circumstances do not*[1]."

- Justice. S.P. Rajkhowa
(MANU/WB/0245/1993)

[1] STATE V. GAUR GUHA, (1994)1CALLT84(HC), MANU/WB/0245/1993

CHAPTER -1

INTRODUCTION

- **EVIDENCE**
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INTRODUCTION

EVIDENCE: MEANING, CATEGORIES & TYPES.

Meaning from the Latin words "evidence" "evidere", this means “to show clearly; to make plainly certain; to ascertain; to prove. “Evidence" says Blackstone which demonstrates, makes it understandable, or accretions the truth of "signifies that every fact or point in issue, either on the one side or on the other" _*"The word evidence" says Mr. Taylor, "includes all the legal means, exclusive of mere argument, which tend to prove or disprove any matter of fact, the of which submitted to judicial investigation"*. -Unless the facts are correctly ascertained, howsoever accurate be the application of the substantive law, the result cannot (except by mere chance)be free from error. The first and most essential step towards a right adjudication is therefore, to ascertain the facts correctly. The value of rules, which guide and assist in the performance of this duty, must necessarily bevery great and thus we see the importance of the study of the law of Evidence.

In common speech, evidence is merely that, which makes evident something to someone, as when a person who heard a disputed remark, says that he relies on the evidence of his own ears. But in law, evidence is that which makes evident a fact to a judicial tribunal.

Yet this bald statement requires considerable elaboration. Though in general subjects of judicial inquiry are facts, it is not easy to define a fact. Fortunately, there is no necessity to compete with philosophers in this matter or to observe nice distinctions interminology. It will be sufficient now tomention that a fact may be not only an object of perception by any one of the five senses, such as a sound heard or anything seen, smelled, tasted or touched, but also the subject of consciousness, whether a physical sensation such as pain, or a mental condition. It is a legal commonplace that the of a man's mind is as much fact, as the state of his digestion.

In this connection, fact is sometimes distinguished from both opinion and law. No doubt, an opinion as to what a person might have been expected to say has no place in an inquiry as to the fact of what words he actually spoke; and to give an opinion as to the legal effect of facts is often the function not of a witness, but of the tribunal; but in some cases, an opinion is treated as a fact and therefore, as the appropriate subject of evidence. Every rule of English Law, however, is in theory known to the Courts, and therefore does not require to be established, in the same way as a fact.

That which makes evidence is a fact may be regarded from two different points of view; and it is desirable at the outset of this study to realize that the term "evidence" is applied to, in more than

one conception. * Evidence may be considered, either as facts themselves, or as the methods used to bring them, to the notice of the tribunal.

In English, the word "evidence "sometimes means the words uttered and things exhibited by witness before a court of justice. At other times, it means the facts prove to exist by those words or things and regarded as the groundwork of inference as to other facts not so proved. Again,

it is sometimes used as a meaning to assert that a particular fact is relevant to the matter under inquiry. In the act however, the words have been assigned a more definite meaning and is used only in first of those senses. As thus used, it signifies the instruments by means of which relevant facts are brought before the courts and by the means of which the court is convinced of these facts.

Evidence is generally divided into three categories: -

a. Oral or personal;
b. Documentary;
c. Material or real.

But the act only recognizes the first two categories which is real evidence and is supplied by material objects for inspection of the court e.g., Weapon of offence or stolen property.

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Types of evidence:

a. Primary and secondary evidence

   It maybe oral or documentary. Primary evidence is the evidence of what a witness has personally seen or heard or gathered by his senses. It is called direct evidence as opposed to hearsay evidence (Sect.60). On the other hand, hearsay evidences are the example of secondary oral evidences or indirect evidence.
b. The best evidence or the original evidence means the primary evidence. The best evidence rule excludes secondary evidence.
c. Real and personal.
d. Oral and documentary.
e. Direct and indirect evidence (hearsay).

Direct evidence can be used in two senses:

(A) as opposed to hearsay evidence,
(B) as opposed to circumstantial evidence.

In the first sense direct fact actually perceived by a witness with his Own evidence is the evidence of a senses or an opinion held by him, while hearsay evidence is, e. g., what some witness to have Seen or heard by him. Acc. to S.60 of the Act the term 'direct' is used in contradistinction with 'hearsay' evidence.

INDIRECT EVIDENCE OR CIRCUMSTANTIAL EVIDENCE: MEANING

The term Direct evidence which goes expressly to that very end in question and which, if understood, proves the point in issue without aid from inference or reasoning, e. g., the testimony of an eye-witness to murder. On the other hand, circumstantial evidence does not address the point in question directly or head on, but establishes it only by inference[2]. Thus, If A were tried murder of B, evidence of the fact that A had a motive to murder B and that, at the

time B was murdered, A was seen with a sword and was last seen going towards the place where B was murdered and, shortly afterwards, was seen returning from the place with his clothes stained with blood, would be indirect or circumstantial evidence. In accordance with S.5 of the Act, evidence may be given in a proceeding of the existence or non-existence of facts in issue and of such other facts in question could be declared as relevant by the act. If the evidence relates directly to the existence or non-existence of a fact in issue, the evidence direct; but if it relates to the existence or non-existence on only a relevant fact, it is indirect or circumstantial. Direct evidence, as thus understood, should not be confused with the sense in which this term is used in Sect.60 of the Act.

In accordance with S.60 of the Act, "*direct evidence*" is used as opposed to "*hearsay*" evidence and not as opposed to "*circumstantial*" evidence, and therefore, in the sense in which the above mentioned word is used in the given section, circumstantial evidence must always be "direct" that is the essentials from which the existence of the fact in issue is to be taken up must be proved by "direct" and not by" hearsay" evidence in other words the chain of events should be without a doubt directly linked to one another.

Generally, circumstantial evidence [3][4]cannot be compared to direct evidence. The circumstances could lead towards particular hypothesis and the relationship to true or proven facts could be more obvious than real. The value circumstantial evidence has to be assessed on consideration that it must be such as not to admit of more than one solution, and that it must be inconsistent with every proposition or explanation that is not true. If these circumstances are satisfied, circumstantial evidence may fairly accurate to truth and bechosenideally to direct evidence. For understanding the use of circumstantial evidence four things areessential:

- *That the circumstances from which the inference is carved out be fully established.*
- *That all the facts should be in consistent without a doubt with the hypothesis.*[5]
- *That the circumstances should be of conclusive nature and tendency.*
- *That the circumstances, should to moral certainty actually exclude every hypothesis but the one proposed to be proved.* [6]

[2]https://www.legitquest.com/case/rukmani-devi-v-state-of-rajasthan/19e89f
[3]Sharad Birdhichand Sarda Vs. State of Maharashtra, MANU/SC/0111/1984
[4]73CWN467 1970CriLJ403 (1969)ILR 1Cal39 MANU/WB/0242/1968
[5]https://www.casemine.com/judgement/in/56b495ab607dba348f01424c

Acc. To the Supreme Court, it is an error to say that "what the court considers is whether the cumulative effect of circumstances establishes the guilt of the accused beyond a 'shadow of doubt'. In the first place, 'shadow of doubt', even in cases which depends on direct evidence is shadow of reasonable doubt. Secondly, in its practical application, which requires the elimination of other plausible hypothesis is far more meticulous than the test of proof beyond reasonable doubt.[7]

In a prosecution of bribery, the fact that money had been recovered from the bush-shirt of the appellant was itself, held to be not sufficient, for convicting him, when substantive evidence which was used in proving the offence was found to be not reliable. [8]

The rule that facts are provable by circumstantial evidences as well as by direct testimony, has a considerable effect in preventing guilty or dishonest parties from tampering or making away with witnesses and other instruments of evidence, which they would be more likely to do so, if they knew that the only evidence which the law received against them was contained few easily ascertained depositories.[9]

Last seen evidence theory[10]

The last seen evidence is the specie of circumstantial evidence foundation of last seen theory is based on principles of probability and cause and connection where a fact has occurred with alas series of acts proceeding or accompanying it can safely be presumed that the fact was possible as a direct cause of the proceeding or accompanying fact unless there exist a fact which breaks the chain of events upon which the inference depends.

TEST TO ESTABLISH CIRCUMSTANTIAL THEORY[11]

Where prosecution relies on circumstantial evidence the following test to be clearly established:

a. The circumstances from which an inference of guilt is sought to be drawn must be cogent and firm.[12]
b. Those circumstances should be of a definite tendency unerringly pointing towards guilt of accused.
c. The circumstances taken cumulatively should form a chain of events so that there is no escape from the conclusion that within all human possibility the crime was committed by accused and none else.

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[6] STATE V. SHANKAR PRASAD,1952 A.776: 1952 Cr LJ 1334| RATAN LAL V.REX ,1949 A.222: 50 Cr LJ333| https://indiankanoon.org/doc/1178733/

[7] SHANKARLAL V. STATE OF MH.,1982 SC 765: 1981 Cr LJ 325(PARA 32)

[8] SWRAJMAL V. STATE(DELHI ADMN.),1979 SC 1408(PARA 2)

[9] SHEORJ V. A.P.BATRA, 1955 A.638

[10] VISHAL V. STATE , 2016IIIAD(Delhi)109,2017(1)Crimes263(Del.),228(2016)DLT162, 2016(1)JCC667, MANU/DE/0274/2016

[11] RAM SUNDER SEN V. NARENDER @BODE SINGH PATEL, 2015ALLMR(Cri)4511 2015 (91) ACC 936 2016 (1) ALD(Crl.) 260 (SC) 2015XII AD (S.C.) 129 2015(4)Crimes366(SC) 2016CriLJ353

[12] ROOP SINGH V.STATE OF PUNJAB 2008(4) CRIMINAL COURT CASE 230(SC)

d. The circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than the guilt of accused & such evidence should not only be consistent with guilt of accused but also inconsistent with his innocence.[1314]

"Conviction can be based on circumstantial evidence but it should be tested by the touch-stone of law relating to circumstantial evidence."[15]

- *Justice Arijit Pasayat (S.C)*

CHAPTER 2

Evidentiary value of circumstantial evidence.

- Five cardinal principle of Circumstantial Evidence.

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Evidentiary Value of Circumstantial Evidence

It is a known fact that circumstantial evidence cannot be compared or regarded as direct evidence as direct evidence is able to prove the guilt of the accused without or beyond the shadow of doubt but this does not bring the evidentiary value of the circumstantial evidence. It is a common misconception that the evidentiary value of circumstantial evidence is less important than direct evidence. This is only to some extend true because there are various cases where the conviction or acquittal is solely based on the circumstantial evidence. There are not a lot of cases in which the direct evidences are available to draw the inference of the guilt of the accused. A lot of criminal prosecution relies on circumstantial evidence because majority of the cases of criminal nature are heavily depended on several of time frames. Especially in criminal cases why

[13] MANIVEL&Ors. V.STATE OF TAMIL NADU, 2008(4) CRIMINAL COURT CASE 416 (S.C)
[14]TrimukhMarotiKirkan vs. State of Maharashtra
[15]State of Maharashtra vs. Mangilal (06.03.2009 - SC) : MANU/SC/0367/2009

circumstantial evidence is necessary, it is because every minute detail in the case can make a big difference this can be explained by an example: -

> "In the FIR(First information Report) the time of incident happened was as 10:15 p.m and death of 'B' was reported as murder via gun shot, it was a known fact that 'B' had a fight with 'A' two days before the incident took place and the last seen of 'A' was not known to police. 'A' was later arrested on apprehension by the police and wife of the 'B' said that the person who shot her husband was identical to 'A', he was later arrested with a gun and after further investigation history of assault and violence also appeared in front of his name. Later 'A' was presented and charge sheet was filed but when the matter went to trial, the chain of event leading to the incident were drawn and it was seen that the bullet was not recovered from the gunshot wound of the body nor the call detail report(CDR) confirms that the last know position of the accused was anywhere around the place of incident. With so many defects in the chain of events and the said case was dismissed and accused was acquitted of all charges."

The reason why circumstantial evidence has a evidentiary value is because it allows the court to fill in the blanks or complete the chain of events in order to prevent the court from punishing any person who maybe innocent. The chain of events plays a very important role in deciding the outcome of the case. The burden of proof lies with the party taking the help of chain of event either to prove the guilt of accused or to prevent the court the court from doing injustice to an innocent being. Only on the completion of chain of events and the satisfaction of the court can there be a decision which can solely rely on circumstantial evidence. In majority of the cases circumstantial evidence has an advantage over direct evidence as it more difficult to find loopholes. It is true that establishing a chain of event requires without a doubt process but once it is established it is very hard for the court to ignore the facts presented Infront of it.

Supreme Court while pronouncing the judgment of Hanumant Govind Nargundkar v. State of M.P[16]., S.C made its observation while emphasizing on the evidentiary value of circumstantial evidence which is as follows:-

> "It is well to keep in mind that in cases where the evidence iscircumstantial in nature, the circumstances or chain of events from which the conclusion of guilt is to be drawn or

[16]Hanumant Govind Nargundkar v. State of M.P, AIR1952SC343, 1953CriLJ129, (1952)2MLJ631, MANU/SC/0037/1952,[1952]1SCR1091

> reached upon should in the first instance be completely established, and all the mentioned facts so established should be consistent and cogently drawn towards the only hypothesis of the guilt of the accused. The circumstances should be of a beyond question nature and definite tendency and they should be such as to rule out every other theory but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as to not leave any reasonable argument for a conclusion unfailing with the innocence of the accused and it must be such as to demonstrate that within all human possibilitythat the act must have been done by the accused. In spite of the forceful submissions addressed to us by the learned Advocate-General on behalf of the State we have not been able to discover any such evidence either inherent within Exhibit P-3-A or outside and we are enforced to observe that the courts below have just fallen into the mistake against which wanting was uttered by Baron Alderson in the above stated case."

In the case of Ram Singh V. Sonia where a case of murder of parents and other family member, the said conviction in the case was purely based on circumstantial evidence. The S C while considering the relevancy and authenticity of the circumstantial evidence noted a few observations held as under:

> "So far as circumstantial evidence as against accused No.2 is concerned, the courts below have very extensively and in depth have discussed the findings produced by the prosecution while in compliance with each of the circumstances. In the normal scenario, there would have been no requirement for us to go into these circumstances as elaborately as was done by the two courts below in an appeal filed under Article 136 of the Constitution of India, especially when the finding qua conviction is concurrent. However, taking into consideration that the accused were awarded death sentence by the trial court, which has been converted into life imprisonment by the High Court, and that the case in hand is one of circumstantial evidence, we think it appropriate and in the interest of justice to appreciate the evidence.
>
> The principle for basing or relying on a conviction based on circumstantial evidence has been highlighted in a No. of decisions of the present Court and the law is well settled and understood that each and every incriminating circumstance must be clearly be established by reliable ,clinching and definite evidence and the circumstances so proved
>
> must create a chain of events from which the only plausible conclusion or result about the guilt of the accused can be safely drawn and no other theory against the guilt is probable. The present Court has clearly sounded a note of caution that in a case depending basically upon circumstantial evidence, then it is always a danger that inference or suspicion may take the place of legal proof. The court must satisfy itself that various circumstances in the chain of events have been established evidently and such completed chain of events

> must be such as to eliminate out any such reasonable likelihood of the innocence of the accused. It has also been indicated that when the significant link goes, the chain of circumstances gets broken and the other circumstances cannot in any manner, establish or proved the guilt of the accused beyond all reasonable doubts or without a shadow of doubt. It has been held that the court has to be watchful along being careful to avoid the danger of letting the suspicion to take the place of legal proof, for sometimes without thinking it may happen to be a small step between moral certainty and legal evidence. It has been indicated by the present Court that there is aextensive mental distance between "may be true" and "must be true" and the equivalent divides conjectures from definite result."

In another SC case of Deepak Chanderkan Patil V. State Of M P[17], the pronounced judgment was based on circumstantial evidence and the evidentiary value of circumstantial evidence was highlighted in the mentioned case. The conviction in the above-mentioned case was based on circumstantial evidence, the Supreme Court while upholding the conviction made certain observation as held under:

> "It has been submitted by the learned Counsel for the appellant that there is no direct evidence to prove the participation of the appellant in the commission of the offence in view of the rejection of the evidence of the eyewitnesses. In a case based on circumstantial evidence, there may be no direct evidence to prove the manner of assault or the actual participation of an accused in the assault on the deceased resulting in his death, but if the circumstantial evidence is conclusive in nature, a conviction on the basis of such circumstantial evidence may be recorded. It must be shown that the circumstances established on record are incriminating in nature, and the chain of circumstances established by the prosecution is so complete as not to be consistent with any other hypothesis except the guilt of the accused. 14. Learned Counsel for the appellant also submitted before us that the evidence of PWs 15 and 13 to the effect that the deceased was last seen in the company of the appellant became irrelevant in view of the fact that she prosecution had (sic not) led direct evidence to prove the assault on the deceased. In our view, the submission does not help the appellant. In this case, the circumstance that the deceased was last seen by PWs 15 and 13 in the company of the appellant is a circumstance which considered with other evidence on record has been found to prove the guilt of the accused. It is not as if the prosecution has tried to set up a case other than what was sought to be proved by the eyewitnesses examined in the case who turned hostile. Since the eyewitnesses turned hostile, the circumstance that the appellant had accompanied the deceased and was last seen by him was only treated as one of the circumstances in the chain of circumstances to prove his guilt. 15. In the instant case, we are satisfied that the trial court and the High Court rightly appreciated the

[17]AIR2006SC1708 2006 (55) ACC 274 2006(1)ACR1146(SC) 2006((2))ALT(Cri)189 2006(2)ALT(Cri)189 JT2006(3)SC537 MANU/SC/2579/2006

> evidence on record and the circumstances proved against the appellant conclusively prove his guilt. Mere fact that them is no evidence to show that he actually assaulted the deceased may not be of any consequence in the facts and circumstances of this case. We may only observe that in the face of the reliable evidence on record that the deceased had accompanied him at 10.30 p.m. on 29-12-1998; the accused-appellant did not offer any explanation as to whether they parted company thereafter. The fact that he knew about the dead body of the deceased lying in the garden behind the house of A-1 is almost clinching in nature and leaves nothing to doubt. Having considered the evidence on record, we are satisfied that there is no justification for interference with the order of conviction and the sentence imposed on the appellant. This appeal is, therefore, dismissed"

It is now settled that the evidentiary value of circumstantial evidence is more or less comparable with the direct evidence. The only point of concern is that the circumstances leading to and resulting in the completion of the chain of events must be without a shadow of doubt in order to prevent the court of any level to pass a judgment which could be bad in the name of law. The reason why circumstantial evidence is taken up is because in most of the cases there is lack of direct evidence and hence here is where the role of circumstantial evidence comes to play. The most important rule that one must remember is that the completion of chain of events without a shadow of doubt should be established and is well taken by court or in other words the court must be satisfied that the presented evidence or findings are filling the gaps between the events resulting to completing the chain of events as well as ruling out any other possible situation that would not show the guilt of an accused or vice-versa.

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FIVE CARDINAL PRINCIPLES OF CIRCUMSTANTIAL EVIDENCE

In the case of Sharad v. State of Maharashtra (AIR 1984 SC 1622)[18], the Hon'ble Supreme Court of India made the following criteria that are known as *the five golden principles* which are as follows: -

1. The circumstances from which the inference of guilt is to be drawn shall be fully and without a doubt established.
2. The chain of events so established shall be in consistent only with the theory of the guilt of the accused, that is, they should not be reasonable on any other theory except that the accused is guilty.
3. Thechain of events drawn should be of a beyond question nature and tendency unerringly pointing towards the guilt of the accused.
4. They shall exclude every potentialtheory except the one to be proved.

[18]AIR1984SC1622, 1984(86)BomLR536, 1984CriLJ1738, MANU/SC/0111/1984

5. There must be a chain of events so as to complete as well as not to leave any questionable ground for the conclusion reliable with the innocence of the accused and must show that in all human prospectthat the act must have been done by the accused

CHAPTER -3

- **CIRCUMSTANTIAL EVIDENCE AND CORROBORATION.**
- **CIRCUMSTANTIAL AND EXTRA JUDICAL CONFESSION.**
- **CIRCUMSTANTIAL EVIDENCE AND SECTION 313 OF Cr.P.C.**
- **CIRCUMSTANTIAL EVIDENCE AND BURDEN OF PROOF.**
- **CIRCUMSTANTIAL EVIDENCE IN RELATION WITH MOTIVE.**

CIRCUMSTANTIAL EVIDENCE AND CORROBORATION

Circumstantial evidence is a compilation of information that, when taken combined, can be used to draw a hypothesis or a conclusion about something not known to the court. Circumstantial evidence is used to support a hypothesis of a chain of events leading to an incident. The combined total of multiple fragments of corroborating findings, each piece being circumstantial only, create an argument to compile the circumstantial evidence and create a theory carving out the guilt of the accused. Circumstantial evidence is generally a hypothesis, supported by a considerable quantity of corroborating evidence. As the circumstantial evidence is combination of circumstances, it is hence necessarily essential to be formed by the prosecution only by way of corroborating conditions surrounding the incidentor offence and thus viewed, corroboration is an essential part of such type of evidence i.e., circumstantial evidence.
In *Baskerville's case*[19] the Court of Criminal Appeal in England after discussing various authorities on the subject came to the following conclusion: -

"We have drawn a conclusion that evidence in corroboration must be self-determining testimony which affects the accused by linking or tending to connect him with the said crime. In other words, it must be evidence which incriminate him, that is, which authenticate in some material particular not only the evidence that the crime has been committed, but also that the criminal committed it. The test applicable to determine the nature and extent of the corroboration is thus the same whether the case falls within the rule of practice at common law or within that class of

[19]Jnanendra Nath Ghose vs. The State of West Bengal (08.05.1959 - SC) : MANU/SC/0055/1959

offences for which corroboration is required by statute. The language of the statute, implicates the accused," compendiously incorporates the test applicable at common law in the rule of practice. The nature of the corroboration will necessarily vary according to the particular circumstances of the offence charged. It would be in high degree dangerous to attempt to formulate the kind of evidence which would be regarded as corroboration, except to say that corroborative evidence is evidence which shows that the story of the collaborator that the accused committed the crime is true, not merely that the crime has been committed, but that it was committed by the accused.

The corroborative evidence must be evidence which implicates the accused, i.e., which confirms in some material particulars not only the evidence that the crime had been committed but also that the appellant had committed it. The Session Judge told the jury that: -

"Corroborative evidence, you should bear in mind, is evidence which shows or tends to show that the story of the accomplice that the accused committed the crime is true. The corroboration of evidence need not be straight evidence that the accused committed the crime. It is adequate if it is just circumstantial evidence of his connection with the crime. The corroboration in material particulars must be such as to connect or identify each of the accused with the offence."

It seems to us that the Sessions Judge directed the jury in accordance with the principle laid down in Baskerville's case and no serious objection can be taken to the manner in which the Sessions Judge directed the jury in this respect. The moment there is corroborative evidence which connects or tends to connect an accused with the crime such corroborative evidence relates to the identity of the accused in connection with that crime. It is the approver's evidence which is the direct evidence of the crime. There should be corroboration in material particulars not only concerning the crime but corroboration of the approver's story by evidence which connects or tends to connect an accused with the crime. It is this corroborative evidence which determines the mind of the Court or a jury that the approver's evidence that the accused committed the crime is true.

CIRCUMSTANTIAL AND EXTRA JUDICAL CONFESSION

Extra judicial[20] confession must be established to be true and made voluntarily and in a fit share of mind- words of witnesses must be clear, unambiguous and should exactly convey that the accused is perpetrator of the crime. Further it is observed that Extra-judicial confession are often accepted and might be basis of conviction, if it is passes the test of credibility, extra judicial confessions should inspire confidence and court should find out whether there are cogent circumstances on records to supports it.

[20]https://indiankanoon.org/doc/18111391/

The Hon'ble S C bench consisting of J.J M Panchal and J. T S Thakur[21] making their observation on reliability of extra-judicial confession, the bench stated that the same was considered to be a weak piece of evidence by the Hon'ble court which is as follows:

> "This Court finds that there is no reliance on any rule of law or of prudence that the evidence furnishing extra judicial confession cannot be relied upon unless corroborated by some other credible evidence. Thefacts relating to extra judicial confession can be acted upon if the facts about extra judicial confession comes from the witness himself who appears to be impartial and in respect of whom even remotely nothing is brought out which may tend to indicate that he may have a motive for attributing an untruthful statement to the accused."

CIRCUMSTANTIAL EVIDENCE AND SECTION 313 OF Cr.P.C

The Honb'ble S C bench consisting of J. J M Panchal and J.T S Thakur[22] , the bench, while pronouncing the judgment and explaining the law which involves circumstantial evidence has also made an observation that where circumstances are made out to put the accused through his inspection U/s.313 of the Cr.P.C and the accused simply denies the same, then such contradiction would be an added link in the chain of events to frame charges against the accused. In this case the appellant simply denied the averments raised and failed to explain the chain of events. Therefore, such a failure will have to be treated as an addedconnection in the chain of events to charge Ansari, the appellant.

CIRCUMSTANTIAL EVIDENCE AND BURDEN OF PROOF

When a case is sought to be proved by prosecution on the basis of circumstantial evidence, burden on the prosecution is that it must prove each circumstance in such a way as to complete the chain of event and at the same time it should be consistent with the guilt of the accused. Any reasonable doubt in proving circumstances must be resolved in favor of accused. Accused must be given the benefit of any fact or circumstances which is consisted with his innocence, which is to be presumed, unless contrary is proved by the chain of events of the on-record circumstances.[23]The inalienable interface of presumption of innocence and the burden of proof[24] in a criminal case on the prosecution has been succinctly expounded in the following passage from the treatise ***"The Law of Evidence" fifth edition by Ian Dennis at page 445:***

> "The presumption of innocence states that a person is presumed to be innocent until proven guilty. In one sense this simply restates in different language the Rule that the

[21]https://indiankanoon.org/doc/867974/
[22]https://indiankanoon.org/doc/867974/
[23] SHANMUGHAN V. STATE OF KERELA, 2012, AIR2012SC1142 , 2012 (76) ACC 820 , 2012(3)B.L.J.433, 2012(1)CLJ(SC)182 2012CriLJ1489
[24]Jose vs. The Sub-Inspector of Police, Koyilandy and Ors. (03.10.2016 - SC) : MANU/SC/1162/2016

burden of proof in a criminal case is on the prosecution to prove the Defendant's guilt. As explained above, the burden of proof Rule has a number of functions, one of which is to provide a Rule of decision for the fact finder in a situation of uncertainty. Another function is to allocate the risk of mis-decision in criminal trials. Because the outcome of wrongful conviction is regarded as a significantly worse harm than wrongful acquittal the Rule is constructed so as to minimize the risk of the former. The burden of overcoming a presumption that the Defendant is innocent therefore requires the state to prove the Defendant's guilt."

CIRCUMSTANTIAL EVIDENCE IN RELATION TO MOTIVE.

If motive is set out by prosecution is not proven beyond the shadow of reasonable doubt the other incriminating circumstantial evidence may lose its importance and it may lead the court to drawn an inference that perhaps the appellant was not involved in the commission of crime. The reason the motive plays an important role in completion of circumstantial evidence is that it allow as an assurance policy to the court when all the circumstantial evidences are placed on the record in order to complete the chain of events. Once the court is satisfied that on placed record matches with the motive of the accused the guilt is drawn out and hence the case is made out but then again there is a thin lining which has to be played well by the prosecution is to link the motive with circumstantial evidence on record in order to eliminate any other hypothesis so that there is no question about innocence of the accused.

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CONCLUSION

I would like to conclude this by emphasizing the importance of the circumstantial evidence not only in proving a case but also on how important it is for legal world. The misconception between the direct and circumstantial evidence shall be put to rest as the above-mentioned research along with the supporting cases proves that how circumstantial allows to see a case from more than one angle in order to carve a path for a better justice. Circumstantial laws are well established in our country and are being followed since the independence but there are still several of cases where due to absence of sufficient circumstantial evidence people are convicted in the cases which are partial proved in the court. Therefore, the understanding the importance of circumstantial evidence in the field of law is important for both the State and Defense counsels as cases lacking direct evidence can otherwise be proven by the help of circumstantial evidence which has to be carefully be tried out by court in order to establish the guilt of the accused and to rule out every possibility that otherwise shows his innocence. The Hon'ble Courts however designed a set of rules which acts as primary cardinal rule for circumstantial evidence in order to avoid any mistake or overlooking of the facts. When a counsel takes the help of the circumstantial evidence it becomes a duty of the prosecution to connect the link or chain of

events in order to present a case in which the events lie in a chain in order to satisfy the court. The role of prosecution is very essential in cases with entirely rely on the circumstantial evidences and it is prominent duty which has to be taken out with utmost caution because any lack of evidence not linking with the events present in from of the court can have an adverse effect on the case as well as the parties involved. Hence the meaning and evidentiary value along with its importance of circumstantial evidence not only in criminal law but law in general was tried to be explained in the best possible ways.

However, the law provides us with various of ways to look at a case and go in a direction most suitable for that particular case and among those pool of possibilities, circumstantial evidence plays a very crucialrole in allowing lawyer as well as judges to look at a case in a way never seen before.