

# LEGALFOXES LAW TIMES

## CREDIBILITY OF CIRCUMSTANTIAL EVIDENCE

BY SNEHA VARGHESE

### ABSTRACT

Credibility of circumstantial evidence is a very volatile concept and highly depends on case to case basis. The circumstantial evidence established in a particular case can even be the soul basis of conviction provided that the essential conditions established are fulfilled. Direct evidence is usually considered to have more evidentiary value but most of the criminal landmark judgments are based majorly on circumstantial evidence and even most civil litigations. Practically circumstantial evidence generally has an upper hand over direct evidence since it is difficult to fabricate or manipulate such kind of evidence. In cases where it is not significantly based on circumstantial evidence, a more moderate approach can be taken into consideration since it has a high credibility but cannot always be spot free.

### INTRODUCTION

Evidence is “the means from which an inference may logically be drawn as to the existence of a fact. It consists of proof by testimony of witnesses, on oath; or by writing or records.”<sup>1</sup> The word ‘evidence’, considered in relation to law, includes all the legal means, exclusive of mere argument, which tend to prove or disprove any matter of fact, the truth of which is submitted to judicial investigation.<sup>2</sup> In India the Indian Evidence Act mainly deals with evidences in relation to any criminal or civil matter.

Indirect Evidence otherwise known as circumstantial evidence is evidence that gives rise to a logical inference that such a fact does exist where it may either be conclusive or presumptive.<sup>3</sup> It is referred as conclusive when a connection can be portrayed between the main fact and the fact

---

<sup>1</sup> Tomlin’s Law Dictionary

<sup>2</sup> Ratanlal & Dhirajlal’s The Law of Evidence, 24e 2016

<sup>3</sup> *Ibid.*

that is evidential. It is based on presumptions when the fact is centered upon a higher or a lesser degree of probability. Therefore circumstantial evidence is evidence from which the desired conclusion may be drawn but which requires the tribunal of fact not only to accept the evidence presented but also draw an inference from it.<sup>4</sup>

## CRITICAL ANALYSIS

### LEGISLATIVE ANALYSIS

In the Indian Evidence Act, there isn't an exclusive provision with regards to circumstantial evidence but is inferred in certain sections but it has been established in a better manner by the way of precedents.

Though, in the definition of the word "evidence" given in Section 3 of the Indian Evidence Act, 1872 one finds only oral and documentary evidence, this word is also used in phrases such as best evidence, circumstantial evidence, corroborative evidence, derivative evidence, direct evidence, documentary evidence, hearsay evidence, indirect evidence, oral evidence, original evidence, presumptive evidence, primary evidence, real evidence, secondary evidence, substantive evidence, testimonial evidence, etc.<sup>5</sup> The credibility of circumstantial evidence is very deducible and depends on the facts of each case, even though it does not have the same value as direct evidence, there is still a lot of weightage given to this kind of evidence. Circumstantial evidence therefore consists of evidence of circumstances, none of which speak directly to the facts in issue but from which those facts may be inferred. Feelings of animosity towards the victim, presence in the area of the attack, the victim's blood on the accused clothing—all these build up into a strong but inferential case.<sup>6</sup>

Section 106 of Indian Evidence Act 1872 states that – "Burden of proving fact especially within knowledge.—when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him"<sup>7</sup> Thus the demeanor of an accused plays a vital role in making sure

---

<sup>4</sup> PETER MURPHY : A PRACTICAL APPROACH TO EVIDENCE, 2nd Edn., 1985, p. 5

<sup>5</sup> Kalyan Kumar Gogoi v. Ashutosh Agnihotri, (2011) 2 SCC 532 [LNIND 2011 SC 80]

<sup>6</sup> STEVE UGLOW'S EVIDENCE: TEXT & MATERIALS, 1997, p. 15.

<sup>7</sup> Section 106 Indian Evidence Act, 1872

that the circumstantial evidence is corroborated. In case if the alleged accused has acted in an unusual and peculiar way like absconding, not able to prove the presence of an alibi or crime scene contamination etc., which can showcase the mala fide intent then this can be a significant factor connecting the dots which could make him liable for the crime committed.

## JUDICIAL ANALYSIS

The Courts in India have plethora of judgments with respect to the circumstantial evidence and its credibility. Therefore the standard of proof required to convict a person on circumstantial evidence is well-established by a series of decisions of the Supreme Court.<sup>8</sup> According to that standard the circumstances relied upon in support of the conviction must be fully established and the chain of evidence furnished by those circumstances must be so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused<sup>9</sup> and further it must be such as to show that within all human probability the act must have been done by the accused<sup>10</sup> and, if two views are possible on such evidence, the view pointing towards the innocence of the accused is to be adopted.<sup>11</sup> However, this does not mean that before the prosecution can succeed in a case resting upon circumstantial evidence alone, it must meet any and every hypothesis suggested by the accused, however extravagant and fanciful it might be and it is not necessary that every one of the proved facts must in itself be decisive of the complicity of the accused or point conclusively to this guilt so when deciding the question of sufficiency, what the Court has to consider is the total cumulative effect of all the proved facts each one of which re-enforces the conclusion of guilt.<sup>12</sup> It is the cumulative result of all the circumstances which must unerringly point to the guilt of the accused and not one circumstance by itself.<sup>13</sup> In such cases, the Court must guard against the danger of allowing conjecture or suspicion to take

---

<sup>8</sup>Govinda Reddy v. State of Mysore, AIR 1960 SC 29

<sup>9</sup>Deonandan Mishra v. State of Bihar, (1955) 2 SCR 570

<sup>10</sup>Bakshish Singh v. State of Punjab, AIR 1971 SC 2016

<sup>11</sup>State of H.P. v. Diwana, 1995 CrIj 3002 (HP)

<sup>12</sup>State of A.P. v. I.B.S.P. Rao, AIR 1970 SC 648

<sup>13</sup>Gade Lakshmi Mangraju v. State of A.P., 2001 CrIj 3317 (para 23) (SC)

the place of legal proof.<sup>14</sup> Insufficient circumstantial evidence, benefit of doubt, explains the requirements as to circumstantial evidence.<sup>15</sup> If any rational explanation is possible, then there is an element of doubt of which the accused must be given the benefit.<sup>16</sup>

Thus when a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person.<sup>17</sup> Where the case depends upon the conclusion drawn from circumstances the cumulative effect of the circumstances must be such as to negative the innocence of the accused and bring the offences home beyond any reasonable doubt.<sup>18</sup> In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap in the chain of evidence.<sup>19</sup>

Therefore the essential conditions or the golden rules to precede the credibility of a circumstantial evidence that have been established in various other cases and was again reiterated which stated that:

- “(1)The circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned must or should and not may be established;
- (2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;
- (3) The circumstances should be of a conclusive nature and tendency;
- (4) They should exclude every possible hypothesis except the one to be proved; and

---

<sup>14</sup>Charan Singh v. State of U.P., AIR 1967 SC 520

<sup>15</sup>State of U.P. v. Sukhbasi, AIR 1985 SC 1224

<sup>16</sup>HanumantGovindNargundkar v. State of M.P., AIR 1952 SC 343

<sup>17</sup>Hukam Singh v. State of Rajasthan, AIR 1977 SC 1063

<sup>18</sup>Bhagat Ram v. State of Punjab, AIR 1954 SC 621 : 1954 CrIj 1645

<sup>19</sup>C. Changa Reddy v. State of A.P., AIR 1996 SC 3390

(5) There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability that the act must have been done by the accused”<sup>20</sup>

Therefore there is high possibility of cases being decided solely based on circumstantial evidence as long as all the conditions are met with and the onus of proof lies on the prosecution to show the complete chain of events and point the guilt towards the accused<sup>21</sup>and sometimes it could prove a whole lot better than the direct evidence provided as well.

### CONCLUSION AND SUGGESTIONS

Human agency may be faulty in expressing picturisation of actual incident, but the circumstances cannot fail and thus many a times it is aptly said that “men may tell lies, but circumstances do not” so therefore with respect to circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn, in the first instance, be fully established.<sup>22</sup>

Therefore in a Case relating to circumstantial evidence, the Court should see the circumstances very carefully before arriving at a finding of guilt of the person concerned and yet if there is any doubt which is inconsistent with the innocence of the accused, benefit should go to the accused.<sup>23</sup>

The credibility of the evidentiary value on the basis of circumstances is quite high and from the given facts and situations, circumstantial evidence plays a pivotal role in the course of the process of investigation and also to examine the facts at hand. Through circumstantial evidence even the motive of the act can be disclosed but it is not always since it cannot provide relevant fact of the case all the time. Therefore, to conclude it is rightfully said that circumstantial evidence gives a broad idea and perspective with respect to the facts of the case and with proper analysis and investigation, it can be a criteria for conclusiveness and can be made highly credible.

Some suggestions that the Court can take into consideration is:

---

<sup>20</sup>SharadBirdichandSarda v. State of Maharashtra, AIR 1984 SC 1622

<sup>21</sup>Sahadevan v. State of Tamil Nadu, AIR 2012 SC 2435

<sup>22</sup>Ratanlal&Dhirajlal's The Law of Evidence, 24e 2016

<sup>23</sup>YomeshbhaiPrashankar Bhatt v. State of Gujarat, AIR 2011 SC 2328

1. The investigation process in checking the authenticity of the circumstances should be taken care of.
2. There should a more exclusive definition of circumstantial evidence in the act in order to clearly assemble what comes under its broad purview which will also help in creating a better base of its credibility.

### REFERENCES

1. Tomlin's Law Dictionary
2. Ratanlal&Dhirajlal's The Law of Evidence, 24e 2016
3. PETER MURPHY : A PRACTICAL APPROACH TO EVIDENCE, 2nd Edn., 1985, p. 5
4. Kalyan Kumar Gogoi v. AshutoshAgnihotri, (2011) 2 SCC 532 [LNIND 2011 SC 80]
5. STEVE UGLOW'S EVIDENCE: TEXT & MATERIALS, 1997, p. 15.
6. Section 106 Indian Evidence Act,1872
7. Govinda Reddy v. State of Mysore, AIR 1960 SC 29
8. Deonandan Mishra v. State of Bihar, (1955) 2 SCR 570
9. Bakshish Singh v. State of Punjab, AIR 1971 SC 2016
10. State of H.P. v. Diwana, 1995 Crlj 3002 (paras 10 and 11) (HP)
11. State of A.P. v. I.B.S.P. Rao, AIR 1970 SC 648
12. Gade Lakshmi Mangraju v. State of A.P., 2001 Crlj 3317 (para 23) (SC)
13. Charan Singh v. State of U.P., AIR 1967 SC 520
14. State of U.P. v. Sukhbasi, AIR 1985 SC 1224
15. HanumantGovindNargundkar v. State of M.P., AIR 1952 SC 343
16. Hukam Singh v. State of Rajasthan, AIR 1977 SC 1063
17. Bhagat Ram v. State of Punjab, AIR 1954 SC 621 : 1954 Crlj 1645
18. C. Changa Reddy v. State of A.P., AIR 1996 SC 3390
19. SharadBirdichandSarda v. State of Maharashtra, AIR 1984 SC 1622

20. Sahadevan v. State of Tamil Nadu, AIR 2012 SC 2435

21. YomeshbhaiPrashankar Bhatt v. State of Gujarat, AIR 2011 SC 2328