

**Meaning and interpretation of the phrase “disproved” with special reference to  
Vijayee singh Vs. State of U.P. (1990(3) S.C.C. 190)**

Indian Evidence Act describes the phrase disproved in interpretation clause as under,

*“A fact is said to be disproved when, after considering the matter before it, the court either believes that it does not exist, or considers its non existence so probable that a prudent man ought, under the circumstances of the particular case to act upon the supposition that it does not exist.”*

In the Evidence Act definition of this phrase comes in the sequence of the definition of phrases **“proved”** **Disproved”** and **“not proved”**, which indicate that legislatures purposefully defined these phrases one after other to highlight their interrelation. It can be said that definition of Disproved is negative copy of the definition of proved. Remove the negative indent from the definition of disproved and you will get the definition of proved. Simple words in this definition are so intricately crafted that voluminous commentaries are not sufficient to explain their proper meaning. Their Lordships explained some of the aspects of this phrase and its interrelation with phrases proved and not proved.

While dealing with Production and effect of evidence with reference to Burden of proof it is provided u/s 101 of the Evidence Act ‘when a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person’. S. 101 to S. 114 of the Evidence Act deal with various aspects of Burden of proof. In all proceedings the prosecuting party tries to prove its case and the defending party then have to disprove it. In adversarial legal system the process of proving and disproving proceeds simultaneously and this process is shifting onus of proof.

The proceedings with which the courts deal are classified as Civil and Criminal. Evidence Act does not provide any special standard of Evidence for Civil and Criminal proceedings, however certain rules of Evidence Act are applicable to criminal cases only viz. confessions, Dying declarations, Character of accused. **Justice Best** therefore remarked, *“There is strong and marked difference as to the effect of the evidence in civil and criminal proceedings. In the former mere preponderance of probability is sufficient basis of decision: but in the latter much higher degree of assurance is required. The principle of common law casting heavy burden on prosecution to prove its case beyond reasonable doubt gives a different meaning to phrase “disproved” when used in connection of criminal proceeding.”*

In **Vijayee Singh’s case** their lordships were required to interpret this phrase while discussing whether accused succeeded to disprove any of the facts for which the prosecution adduced evidence and whether defence succeed to discharge the burden cast upon it to bring its case within exceptions as required by the provisions of S. 105 of the Evidence Act. Their Lordships ruled in para 23,

*“From a combined reading of these two sections (s.105 and S.4) it may be inferred that where the existence of circumstances bringing their case within exception is pleaded or is raised the court shall presume the absence of such circumstances as proved unless and until it is disproved.”*

Their Lordships observed that S.105 places burden of proof on the accused in first part and in the second part raises a presumption against admissibility of the defence version. When the accused introduces material to displace the presumption, the initial obligatory presumption gets lifted. In the case before their lordships the prosecution failed to explain injuries on the person of two accused, however the accused proved by the evidence of the doctor that two accused were having injuries age of which correlate with the time of the incident. Considering this situation their lordships held that, when there are circumstances on the record introduced by the accused, either by adducing evidence or otherwise, creating a reasonable doubt about the existence of the ingredients of the offence or shows preponderance of probability in favour of his plea, the court has to give benefit of reasonable doubt to accused.

Making the things more clear their Lordships observed. "Therefore in a case where the prosecution has discharged its burden and where the accused pleads exception and if there is some evidence to support that plea the obligatory presumption under section 105 is lifted and the accused may proceed further and establish his plea by a preponderance of probabilities or he may carry his plea further and succeed in creating a reasonable doubt about an ingredient of an offence."

Now let us dissect the phrase for its better understanding.

**After considering matter before it-** These words specify that the phrase "disprove" is a relative term and it does not convey a rigid meaning. It leaves discretion for the Judge to apply the phrase according to the circumstances of the case.

**Considers its non-existence so probable-**Probability simply means the likelihood of any thing to be true, deduced from its conformity to our knowledge, observation and experience. When the evidence before court is short of forming the belief regarding non-existence of a fact the court may fall back on the probabilities. It is a settled principle of law probabilities alone cannot invalidate direct evidence.

**Prudent man ought, under the circumstances of the particular case, to act upon the supposition** -The standard adopted to reach the conclusion should be of a prudent man. Lord Dennings describes prudent man as just and reasonable man. Again the above words disclose that the supposition may differ case-to-case depending upon the circumstances of the case. Different men draw different conclusions while facing same circumstances depending upon their education, standard of living, earning and social status. In the same way same man may take different decisions while facing different circumstances. All these facts are required to be considered while applying the test of a reasonable man.

Unlike criminal cases, in civil cases there is no burden on particular party to prove the case beyond reasonable doubt and benefit of every reasonable doubt does not necessarily go to the defendant.

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