

Precedents on appreciation of evidence in Criminal trials

- ✚ Assessment of oral evidence-Judges are bound to call into aid their experience of life-it is open to the Judges of fact to test the evidence placed before them on the basis of probability. 1969 MhLJ 159 S.C.
- ✚ Photostat copies of letters are admissible if they are above suspicion. 1060 MhLJ 153 S.C
- ✚ Evidence -suspicion however strong cannot take place of evidence in criminal trial 1976 MhLJ Note 87
- ✚ Evidence not ordinarily admissible but acted upon by the consent of parties -no illegality. 1964 MhLJ 174 S.C.
- ✚ Judicial notice-court is entitled to take judicial notice of the facts which are of general knowledge, such as the fact that land value differ from town to town /value of the building decreases with age. 1973 MhLJ 92 S.C.
- ✚ Obligation on party not to withhold important documents having bearing on case in issue-court may draw adverse inference even if burden of proof does not lie on that party. 1969 MhLJ 310 S.C.
- ✚ Part of evidence of witness doubtful and demonstrably false. -Entire evidence cannot be discarded -the Judge should separate acceptable truth from the chaff of exaggerations and improbabilities 1974 MhLJ 229 S.C.
- ✚ Testimony of witness not improbable -testimony accepted. 1988 MhLJ 147
- ✚ Testimony of interested witness irrefutable -such testimony cannot be disbelieved only on ground of interestedness -court cannot insist upon other ocular corroboration 1989 MhLJ 626.
- ✚ Evidence of child witness of tender age tainted with infirmities on the point of proper identification-child appearing to be tutored -conviction on such sole testimony is improper. 1995 Cr.L.J. 594. M.P.
- ✚ No immediate rule that evidence of injured witness should be automatically believed. 1997 Cr.L.J. 1788 Bom.
- ✚ Solitary witness found to have falsely implicated four accused -held-it would be very hazardous and unsafe to accept residual portion of his testimony. 1997 Cr.L.J. 454 Bom.
- ✚ Complainant and accused at inimical terms -no ground to reject testimony of eye-witness-relationship between deceased and witness is no ground to reject testimony -court has to scrutinise with more care than ordinary case-evidence of eyewitness finding corroboration from medical evidence -sufficient to hold accused guilty. 1995 Cr.L.J. 410.
- ✚ Falsehood -injured eyewitness giving cogent and acceptable evidence about incident -he should not be disbelieved for little discrepancies. 1997 Cr.L.J. 454 Bom.

- ✦ Hostile witness - his testimony corroborated by that of reliable witness could be accepted 1997Cr.L.J. 612.Bom.
- ✦ Some exaggerations, improvements and discrepancies-prosecution case will not be damaged thereby.1997Cr.L.J.766S.C.
- ✦ Injuries to witness insure his presence 1997Cr.L.J.796Bom.
- ✦ Known person can be recognised and identified by voice and gait.1997 Cr.L.J.612 Bom.
- ✦ Eyewitness giving details of assault and part played by each assailant-some minor contradiction sin their testimony being trivial be ignored. AIR 1997 S.C. 2828.
- ✦ Prosecution witness having no enmity with the accused -his evidence cannot be brushed aside merely on the ground of his relations with deceased's family AIR 1997S.C.2835.
- ✦ Police witness having no grudge or rancour against accused -presumption that a person acts honestly would equally apply to such a witness.1997Cr.L.J.2425.
- ✦ Stock witness-I.O. knowingly taking pliable witness, as panch witness -entire raid would be suspicious -evidence of police witness in such cases itself is not sufficient for conviction. 1994 CrLJ 1020 Bom.
- ✦ Interested witness-evidence to be scrutinised considering probabilities, post statements and attending circumstances. 1994 CrLJ 1116 S.C.
- ✦ Evidence of eye-witness including injured witness cannot be disbelieved on the basis of vague evidence of hostile witness 1994 CrLJ 596. S.C.
- ✦ Injured witness -accused 13-14 in number -injured taking shelter in house -accused making hole in roof and attacking - witness not able to give detailed and consistent account-considering their injuries and positive evidence witness be believed. 1994 CrLJ 1103 S.C.
- ✦ Eyewitness -presence of witness at the time of incident proved -minor inconsistencies as to time of the incident -not material-evidence believed .1994CrLJ1206 S.C.
- ✦ Rules to rely circumstantial evidence-
 - 1.such circumstance, From which inference of guilt is to be drawn, must be cogently and firmly established.
 - 2.These circumstances should have definite tendency unerringly pointing towards guilt of the accused.
 - 3.these circumstances should form a chain so complete that there is no escape from conclusion that with all human probabilities crime was committed by accused and none else 1998(1) MhLJ392.
- ✦ Single interested witness -when such witness is injured and his evidence as a whole has a ring of truth -little discrepancies like his not seeing assailants of his deceased brother and naming his assailants cannot make his testimony inadmissible. 1997(1) MHLJ 337.

Evidence of interested witness should be scrutinised with caution -such evidence should not be mechanically discarded .1997(3) MHLJ 133.

In riot cases conviction on the basis of single eye-witness not proper -court should insist on plurality of eye-witnesses as a rule of prudence 1995(1) MhLJ 843.

Sole contradiction -no ground for rejecting otherwise reliable testimony of a witness.1998 CrLJ 3756 Bom.

Eye witnesses - their relations with accused inimical -no implicit faith could be placed on their evidence, however their evidence cannot be rejected on the ground that their names are not mentioned in F.I.R. as eye-witnesses.1992 A.I.R. 2606 S.C.

Veracity of the evidence of the complainant cannot be doubted on the ground that no independent witnesses from the nearby place were examined by the prosecution 1998A.I.R. 2606 S.C.

Injuries sustained by accused -statement given by accused to doctor about cause - amount to admission.1998 A.I.R. 260 S.C.

A Number of infirmities in evidence of eye-witnesses-such evidence could not form basis of conviction .1998 CrLJ 3626.

Number of infirmities in evidence of eyewitnesses, such evidence could not form basis of conviction.1998 CrLJ 3628.

Creditability of witness not to be decided on the basis of mere status of witness. 1999(2) MhLJ 285.

Consistent and reliable evidence of eyewitnesses proving that the accused had given fatal blow on chest of deceased. Merely because the witnesses not specifically stating in statements recorded by police officers u/s 161 which blow was given by which accused, accused could not be acquitted.1999 (1) CrLJ 463(SC).

Evidence of witness who has no animus with accused not ipso facto accepted but only if in tune with probabilities inspiring confidence. 2000(1) MhLJ 122.

Circumstantial evidence. Basis of conviction only where circumstances are established against the accused, which are wholly compatible with the inference of guilt and incapable of being explained on any other hypothesis, accept the guilt of the accused. Merely because prosecution story may be true not sufficient for conviction. 2000(1) MhLJ 499.

Appreciation of corroboration -The role about the advisability of corroboration should be present in the mind of the judge. The necessity of corroboration is as a matter of prudence, except when the circumstances make itself to dispense with it. Rameswar v. State of Rajasthan AIR 1952 SC 54.

The question as to whether corroboration is sufficient depends in each case on its own facts and circumstances. Nandakumar v. State of Rajasthan 1963 (2) CrLJ 702.

When it is said that the corroborative evidence must implicate the accused in immaterial particulars, it means that it is not enough that a piece of evidence tends to confirm the truth of part of the testimony to be corroborative. That evidence must confirm that part of the testimony, which suggests that the crime was committed by the accused.

In this case, the victim was last seen by two witnesses in the company of the accused and approver. Some articles were recovered. There was motive with one of the accused to commit offence. The relations of the deceased were strained with two accused. All these

factors were considered sufficient to corroborate the statement of approver. *Sheshana Yadav v. State of Maharashtra* AIR 1970 SC 1330.

The prosecutrix cannot be considered as an accomplice and, therefore, her testimony cannot be equated with that of an accomplice in an offence. As a rule of prudence, however, Court normally looks for some corroboration to such testimony to satisfy its conscious that she is telling the truth and that the person accused of rape on her has not been falsely indicated. *Gurcharansing v State of Haryana* AIR 1972 SC 2661.

Where there are inherent improbabilities in the story put forward by the eyewitnesses, it would not be safe to act upon the coveted testimony. *Salveraj v. state of Tamil Nadu* AIR 1976 SC 1970.

Infirmity in the evidence of the interested witness is cured when the interested witnesses is corroborated by the evidence of an independent witness. *Sarwan Singh v. state of Punjab* AIR 1976 SC 2304.

A person reaching the spot of incident just after the incident, though not an eyewitness, but his testimony can be used for corroboration to the version given by the eyewitnesses. *Narendra Singh v. State of U.P.* AIR 1987 SC 1337.

The public is generally reluctant to come forward to depose before the court. It is, therefore, not correct to reject the prosecution version only on the ground that witnesses for the corroboration have not been examined. Nor it is proper to reject the case for want of corroboration by independent witnesses if the case is otherwise acceptable. With regard to falsehood stated by the prosecution witnesses, it is required to be remembered that there is a tendency amongst witnesses in our country to backup a good case by false or exaggerated version.

Invariably the witnesses add embroidery to prosecution story, perhaps for fear of being disbelieved. That is no ground to throw the case overboard, if true, in the main. If there is ring of truth in the main, the case should not be rejected. It is the duty of the court to separate grain from the chaff, unless there is reason to believe that the inconsistencies or falsehood is so glaring as to destroy confidence in the witnesses. *State of U. P. v. Anil Singh* AIR 1988 SC 1998.

What type of corroboration is necessary in a given case depends upon various factors and circumstances. In the instant case, all the eyewitnesses are the injured witnesses. It cannot be said that every one of them is active partisan in this case and that they would have the tendency of implicating the innocent persons leaving out the culprits. *Amrjit Singh v. state of Punjab* AIR 1993 SC 229.

The corroboration may not be direct. It can be by way of circumstantial evidence also. *Ramesh Kumar v. state of Madhya Pradesh.* AIR 1995 SC 1988.

Entire case revolves around and rests on the testimony of the single witness. It is now well established that conviction can be based on the testimony of a single witness provided the court finds from the scrutiny of his evidence that he is a wholly reliable witness. We are, however of the opinion that the single witness is only partly reliable, prudence requires that Corroboration of this testimony in material particulars should be sought before recording conviction. *Alil mullah v. State of West Bengal* 1996 (5) SCC 369. It is of course true that when a witnesses said to have exaggerated his evidence and has tried to involve many more accused and if that part of the evidence is not found acceptable, the remaining part of evidence has to be scrutinised with care and the court must try to see whether the acceptable part of evidence is corroborated from other evidence on record so that the acceptable part can be safely relied upon. *Harichand v. state of Delhi* AIR 1996 SC 1477.

The presence of injuries goes a long way to overweigh their claim that along with their parents they were the victims of attack. *Major Singh v State of Delhi* 1996(2) Supreme (Cr) 203

Attempt by firing four shots gets corroboration from the recovery of spent up cartridges from the place where the shots were stated to have been fired. *Vijay Singh v. spread of Rajsthan* 1996 SCC (Cr) 745.

Approver-The evidence of the approver has to be corroborated by independent witness on material particulars. *Balwant Kaur v. unit Territory of Chandigarh* AIR 1988 SC 139.

While looking for corroboration, Court must first look at the broad spectrum of the approver's version and then find out whether there is other evidence to lend assurance to that version. The nature and extent of the coalition may depend upon the fact of each case. Corroboration need not be of the direct evidence that the accused committed the crime. The corroboration even by the circumstantial evidence may be sufficient. However, such evidence as to corroboration must be independent and must not be vague and unreliable. *Ranjit Singh v. State of Rajsthan* AIR 1988 S C 672. see also *Sevaka perumal v. state of Tamil Nadu* AIR 1991 SC 1462.

Once it is found that the approver is a planted witness and his testimony is not worthy of credence and is uninspiring and unacceptable justifying its rejection outright, it would futile and wholly unnecessary to look for corroboration for his testimony. *Rampal v. state of Maharastra* 1994 SCC (Cr) 851.

Blood and blood stains-Mere recovery of bloodstained Dhoti in the absence of other evidence is no corroboration to or proof of prior concert or that the participation of the accused in the crime. *Prabhu v. state of Bombay* AIR 1957 SC 56

In the cases of rape report of chemical analyser and serologist regarding clothes of victim, containing spermatozoa and human blood and medical evidence can be used for corroboration to the testimony of prosecutrix. *Madho v. state of U. P.* AIR 1973 SC 469.

Recoveries of bloodstained clothes and knife certainly furnish corroboration to the dying declaration. *State of Madhya Pradesh v. Wazir chand* AIR 1978 SC 315.

The bloodstained clothes found in possession of the accused having the same group as that of the deceased. This is a very important circumstance to corroborate the prosecution case against the appellant. *Zillesingh v. state (Delhi administration)* 1981 SCC (Cr) 622.

The presence of the human blood on the weapon and the Pant of the accused corroborate to the testimony of eyewitness. Defence has not explained the presence of human blood on these two articles. *Khujji v. state of Madhya Pradesh* AIR 1991 SC 1853.

The bloodstains on the turban of the accused and on the Gandasi seized from the accused could not be explained by the accused. Such existence of the bloodstains on the said article corroborates the testimony of the eyewitnesses. *Lakhwinder singh v. state of Punjab* AIR 1993 SC 87.

Accused was said to have been seen before or after the occurrence by several teashop owners and labourers in the tea stall, etc. To corroborate the evidence of the tea stall owners, labourers were examined that they had seen the accused with bloodstained clothes and same were recovered pursuant to the statement under section 27 of the Evidence Act. It is preposterous to place absolute reliance on such suspect evidence. *Varkey Joseph v. state-of-Kerala* AIR 1993 SC 1892.

Child- the tender years of the child, coupled with other circumstances appearing in the case, such as its demeanour, unlikelihood of tutoring and so forth, may render corroboration unnecessary, but that is a question of fact in every case. *Rameswar v. state of Rajasthan* AIR 1952 SC 54.

In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is aiding insult to injury. why should the evidence of a girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief on suspicion? To do so is to justify the charge of male chauvinism in a male dominated society.

While corroboration in the form of eyewitness accounts of an independent witness may often be forthcoming in physical assault cases, such evidence can not be expected in sex offences, having regard to the very nature of the offence. It would, therefore, be aiding insult to injury to insist on corroboration drawing from the rules developed by the courts in the Western world.

Corroboration may be insisted upon when a woman having attained majority is found in compromising position and there is likelihood of her having labelled such an acquisition on account of the instinct of self-preservation. Or when the “probabilities” are found to be out of tune. Even at the age of 10 or 12, a girl in India can be trusted were aware of the fact that the reputation of the entire family would be jeopardised upon such a story being spread. She can be trusted to know that in the Indian society her own future chances on getting married and settling down in a respectable or acceptable family would be greatly marred if any such story calling into question her chastity were to gain circulation in the society. It is also unthinkable that the parents would create such a story in order to wreck vengeance on someone. They would not do so for the simple reason that it would bring down their own social status in the Society apart from ruining the future prospects of their own child. *Bharuwada v. state of Gujrat* AIR 1983 SC 753.

It is well settled that a child witness is prone to tutoring and hence the courts should look for corroboration particularly when the evidence betrays traces of tutoring. *Arvind Singh v. state of Bihar* AIR 1994 SC 1219.

Conduct-The complainant’s conduct of narrating the accordance to three of her colleagues when corroborated by those three witnesses is clearly admissible under section 157 of the Evidence Act. *Chander Kala v. Ram Kishan* AIR 1985 SC 1268.

Expert –it is wrong to say that corroboration must invariably be sought before expert evidence can be accepted. However, reasons for the expert opinion must be carefully probed and examined.

There may be cases where both sides call experts and two voices of science are heard. There may be cases where neither side call an expert, being unable to afford him. In all such cases, it becomes the plain duty of the court to compare the writing and come to its own conclusion. The duty cannot be avoided by recourse to the statement that the court is no expert. Where there are expert opinions, they will aid the court. Where there is none, the courts will have to seek guidance from some authoritative textbook and court’s own experience and knowledge. But discharge it must, its plain duty, with or without expert, with or without other evidence. *Murari Lal v. state of Madhya Pradesh* AIR 1980 SC 531.

FIR- The fact that the first information report lodged within 35 minutes of the occurrence, at the police station at a distance of two miles from the occurrence and the fact that in the aforesaid report the names of the accused and the culprits as well as names of the eye

witnesses were mentioned, lends considerable corroboration to the testimony of the prosecution witness regarding the participation of the accused in the present accordance. Dargahi v. state of U. P. AIR 1973 SC 2695.

In case the informant is not examined, the FIR cannot be used as corroborative piece of evidence. Shankar V. state of U. P. AIR 1975 S C 2695.

The manner in which the medical evidence and expert evidence coming from ballistic examination fit in with the earliest version given in the first information report, justify placing implicit reliance on the evidence of the informant. Gurnam Kaur v. Bakshish Singh AIR 1981 SC 631.

Evidence of the witnesses in question consistent and corroborated by the first information report and the medical evidence can be relied upon. Ram Kumar v. state of Haryana AIR 1995 SC 280.

Hostile witness-hostile witness's contradictions can corroborate the evidence of other witnesses. The court should be slow to act on the testimony of such a witness and, normally, it should look for corroboration to his evidence. Karupana v. state of Tamil Nadu AIR 1976 SC 980.

Evidence of eyewitness cannot be disturbed merely on the basis of some stray statement made by the hostile witness. State of U. P. v. Sahai AIR 1981 SC 1442.

Interested witness- Two supporting witnesses to the occurrence are interested persons; there should be corroboration of their evidence by independent witnesses. This is, of course, a proposition which cannot be of universal application. Mangal singh v. state of Madhya Pradesh AIR 1957 SC 199.

The evidence of interested witnesses cannot be pressed into service as corroborative piece of evidence. Satyanarayan v. state of Madhya Pradesh AIR 1972 SC 1309.

Where there was a deliberate attempt by the prosecution to rope in the four innocent persons as accused with three assailants and that was done due to animosity, the trial court was right in judging the testimony of interested and inimical witnesses with great care and caution and without corroboration from independent evidence. Yamanzppz v. state of Karnataka 1981 AIR 1981 SC 646

Since they are interested witnesses, the evidence was subjected to greater scrutiny and one of the tests applied is whether Specific overt acts are attributed to them so that the only general allegations may not be accepted so as to rule out the possibility of implicating some innocent persons. In appreciating evidence of this kind of witnesses, the courts have always considered that such of the accused against whom Specific overt acts have been attributed consistently and the same is corroborated by the medical evidence and circumstances of the case, can safely be convicted. Ballineddi v. state of Andhra Pradesh AIR 1994 on SC 76.

No infirmity attaches to the testimony of police officials, merely because they belong to the police force and there is no rule of law or evidence which lays down that conviction cannot be recorded on the evidence of the police officer, if found reliable, unless corroborated by some independent evidence. The rule of prudence, however, only requires a more careful scrutiny of their evidence, since they can be interested in the result of the case projected by them. Where the evidence of the police official, after careful scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form basis of conviction and the absence of some independent witness of the locality to lend corroboration to the evidence, does not anyway affect the creditworthiness of the prosecution case. Tahir v. state 1996 SCC (Cr) 515.

Investigating officer-the evidence of investigating officer who conducts search can be relied upon even without corroboration. *Girdharilal v. D.N.Mehta* AIR 1971 SC 28.

in criminal cases the investigation officer, who is naturally involved in the fruits of his investigating affords, suggest the legitimate search for corroboration from independent or unfaltering source, human or circumstantial, to make judicial servitude doubly sure. Not that this approach casts any pejorative reflection on the police officers integrity, but that the hazard of holding a man guilty on interested, even if honest, evidence may impair confidence in the system of justice. *Som prakash v. state of Delhi* AIR 1974 SC 989.

Medical evidence-The evidence of medical man or an expert is merely an opinion, which lends corroboration to the direct evidence in the case. Where there is a glaring inconsistency between direct evidence and the medical evidence in respect of the entire prosecution story, which is undoubtedly a manifest defect in the prosecution case. Or where there is conflict between opinion of two experts, the court should normally except the evidence of an expert whose evidence is corroborated by direct evidence of the case which according to court is reliable. *Piara Singh v. state of Punjab* AIR 1977 on to SC 2274.

The prosecutrix's statement finds corroboration from the medical report. According to the medical report, the Hyman was torn and the edges of the tear were red and painful and blend to touch. There were abrasions on the right breast. She complained of pain in both legs and back of neck. These are indications of first sexual intercourse of a female. *Balwantsingh v. state of Punjab* AIR 1987 SC 1080.

Criminal trial- when prosecution and defence come with untrue facts both versions have to be rejected and accused given the benefit of doubt. *Kashinath v. State of Maharastra* 2001(1) MhLJ 87

Contradictions- Where the story merited by the witness in his evidence before the court differs substantially from that set out in his statement before the police and there are larger number of contradictions in his evidence not on mere matters of the tell, but a wider points. It would not be safe to rely on his evidence and it may be excluded from consideration in determining the guilt of the accused. *Namdeo and others v. State of Maharastra* 1977 CrLJ 238 SC (AIR 1977 SC 381)

The omission to mention any injury inflicted on deceased in the FIR was very significant in the circumstances of this case.-No credence to the version of the alleged that I witnesses could be given as they were not mentioned as eyewitnesses in the FIR made in the circumstances-The alleged that dying declaration was not mentioned in the FIR. On the other hand, the FIR mentions name of witness, who tried to prove the dying declaration only, as an eyewitness. *Ram Kumar v. State of Madhya Pradesh* AIR 1975 SC 1026

Minor omissions and variations in FIR would not affect the prosecution case, if it is substantially the same as was mentioned in the FIR, but designed and a deliberate omission of variations are not inconsequential, particularly when the FIR was lodged by the prosecutrix herself. If all the important facts were known and if she does not mentioned them in the FIR, such omission was to the auditors edition and objects the probabilities of the case, such conduct is relevant under section 11 of the Evidence in judging the veracity of the prosecution case.

Corroboration is not the sine-qua-non for a conviction in a rape case and on principle, the evidence of a victim of sexual assault stands at par with evidence of an injured witness. The evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding and while corroboration in the form of an eyewitness accounts of an

independent witness may often be forthcoming in physical assault cases, such evidence cannot be expected in sex offences, having regard to the very nature of the offence. But corroboration may be insisted upon when the likelihood of the prosecutrix having levelled such an accusation on account of the instinct of self-preservation or when the probability factor is found to be out of tune. Further, in the case of a grown-up and married woman, having grown-up children, it is always safe to insist on such question. Such corroboration may be sought either from direct or circumstantial evidence or from both. *Ashok Kumar v. State of Uttar Pradesh* 1991 CrLJ 2859.

Non Examination of material witness – witness whose testimony was essential for unfolding of the narrative not examine - No explanation was given for not examining him – Prosecution case stand vitiated. *Asharaf v. State of Maharashtra* 1996 CriLJ 3147 Bom
Penal code of 304- injuries caused by accused sufficient in ordinary course of nature to cause death. Accused did intend to cause those injuries. Conviction under section 304 converted to section 302. AIR 1976 Supreme Court 2455

Murder case- When the evidence is conflicting, the evidence favouring the accused should be accepted. Court accepting evidence of daughter of deceased who stated that deceased was assaulted by the accused with a crow bar and rejecting contrary evidence of two other witnesses one of whom was wholly independent witness. Approach of trial court was found to be wholly unjustified. Defence side found suffering larger number of injuries. In such case prosecution was the aggressor. *Machhindra v. State of Maharashtra* 1997 CriLJ 486 Bombay
S. 376 – Unsophisticated labour boy of 18 is more likely to tell the truth. Labourer, Mason and artisans who work on daily wages for fixed hours have an acute sense of time. Daughter of deceased aged 13, would in the situation be amenable to tutoring. Strange conduct inconsistent with human nature and behaviour will affect his creditability of being an eye witness. *Ganesh v. State of Maharashtra* 1979 SCC (Cri) 1.

302 – the witnesses to the alleged dying declaration had stated that they found deceased lying unconscious and he came to his senses temporarily when some water was put into his mouth. The doctor had however stated that there was congestion of the brain of the deceased of the deceased due to the head injuries and that having lost consciousness the victim might not have regained consciousness. It could not thus be said with any amount of certainty that the deceased made dying declaration as stated by the witnesses to the alleged allegations. *Banka v. State of Orissa* AIR 1976 SC 2613.

Hostile witness- Entire evidence is not inadmissible. *Bhagatram v. State of MP* 1999 CriLJ 2407 MP

Circumstantial evidence-the prosecution has to prove the various links in the circumstantial evidence that those links collectively and unerringly point towards the guilt of the accused and are only compatible with the inference of his guilt and wholly incompatible with the inference of innocence of the accused and incapable of being explained on any other hypothesis.

Link evidence – Prosecution must prove that in between period of recovery and till being sent to CA articles were throughout kept in sealed condition.

Extra Judicial Confession- No proof that the person to whom confession was made was in a position to help him or that he enjoyed the confidence of the accused or that there was any

past association between them. Confession cannot be relied upon. Dilip v. State of Maharashtra 1995 AIHC 3471

Section 3- Ocular evidence of witness – his detention at the police station throughout the night show that he has been pressurised to become a witness in the case. In the factual matrix, it would be appropriate to infer that this witness is deposing as a consequences of coercion by police. At any rate it would not be safe to act on his testimony. Lalchand v. State of Maharashtra 2000(3) MhLJ 438

Interested witness- Close relatives of victim have tendency to exaggerate or add facts. Court should examine their evidence with great care and caution. In case of circumstantial evidence the prosecution has to prove that the chain of circumstance is complete. False defence or plea cannot cure infirmity and lacuna in prosecution case. Accused entitled to benefit of doubt when two possibilities are available. Sharad v. State of Maharashtra AIR 1984 SC 1622

Circumstantial evidence- Condition precedents- 1. The circumstances from which the conclusions are 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 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

5. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with innocence of the accused and must show that in all human probability the act must have been done by the accused. Sharad v. State of Maharashtra AIR 1984 SC 1622

The prosecution has to discharge its onus of proving the case against the accused beyond reasonable doubt. State v. V. C. Shukla AIR 1980 SC 1382

Sole witness – None of witnesses gave any description of any dacoits in there statements or in oral evidence. Nor gave any identification marks, such as stature of the accused or whether they were fat or thin or of fair colour or black coklour. Only one witness identified dacoits after certain days of TI parade. Conviction cannot be based only on identification of single witness. Wakil Singh v. State of Bihar AIR 1981 SC 1392.

Corroboration – As a general rule the court can and may act on the testimony of single witness though uncorroborated. Unless corroboration was insisted upon by statute, the court should not insist upon corroboration except in cases where the nature of the testimony of the single witness itself required the same as a rule of prudence. The question of corroboration arises only in regard to a witness who is neither reliable nor wholly unreliable in which the court should be circumspect. Dinkar V. State AIR 1970 Bombay 438

Discovery evidence – discovery evidence by itself is subsidiary and cannot sustain a conviction, but where there is plenty of other evidence to sustain the prosecution case, discovery is a valuable piece of corroborative evidence. Dinkar V. State AIR 1970 Bombay 438

Extra Judicial Confession – It is a weak piece of evidence. Confession was made to avoid harassment by police. Person to whom the confession was made not shown to be one who could protect against harassment. Confession is hardly of any value. Makhansingh V. State AIR 1988 SC 1705

Discovery evidence – Absence of signature or thumb impression of accused on the statement renders it unreliable. *Jackaran Singh v. State of Punjab* AIR 1995 SC 2345

www.drajaay.com