

Evaluation of Circumstantial Evidence in Criminal Cases

Menu; Criminal Law, sub-menu; Law of Evidence

Category; relevancy and proof

Circumstantial evidence is no direct evidence of the incident so occurred in Criminal cases. So, it should be construed with maximum care so that justice may not be denied. However, establishing many odds without definite proof will leave a lacuna of great error. Therefore, any circumstances which destroy the presumption of innocence, only taken into account leaving all other aside. The court takes totality of circumstances into consideration and find if the case is established, that is, the facts established are inconsistent with innocence of the accused and incapable of explanation on any reasonable hypothesis other than guilt. The chain of circumstantial evidence must be construed in such a way that it may not leave any reasonable ground for a conclusion consistent with the innocence of the accused and that it shall show within all the human probabilities that the act must have been done by the accused.

The following principles are established so as to consider the veracity of circumstantial evidence;¹

- (a) The facts or circumstances alleged must be proved by satisfactory evidence as indicated above.
- (b) They must be of a conclusive nature and tendency so as to be totally inconsistent with the innocence of the accused and are not explainable by any other hypothesis except guilt of the accused. The suggested hypothesis must be reasonable and not farfetched.² Imaginary possibilities have no relevance at all. Only ordinary human probabilities are relevant.³
- (c) There should be no missing links in the case. It is not essential that everyone of the links must appear on the surface of the evidence. Some of the links may have to be

¹ Govinda Reddy v. State of Mysore, AIR 1960 SC 29 : 1960 CrLJ 137; Charan Singh v. State of Uttar Pradesh, AIR 1967 SC 520: 1967 CrLJ 525: 1967 (1) SCJ 161; Gambhir v. State of Maharashtra, AIR 1982 SC 1157: 1982 CrLJ 1243: (1982) 2 SCC 351; Chacko v. State of Kerala, AIR 2000 SC 3601; 2001 CrLJ 146: 2000 AIR SCW 1278; Swamy Shraddananda alias Murali Manohar Mishra v. State of Karnataka, AIR 2007 SC 2531: 2007 AIR SCW 5052: (2010) 8 SCC 593; Varun Chaudhary v. State of Rajasthan, AIR 2011 SC 72: 2011 CrLJ 675: 2010 AIR SCW 6794; Paramjeet Singh @ Pamma v. State of Uttarakhand, AIR 2011 SC 200: 2010 AIR SCW 6616: 2011 CrLJ 663; Krishna Ghosh v. State of West Bengal, AIR 2009 SC 2279: 2009 CrLJ 2820: 2009 AIR SCW 3017; M.G. Agarwal v. State of Maharashtra, AIR 1963 SC 200: (1963) 1 CrLJ 235: (1963) 2 SCR 405

² Babudas v. State of Madhya Pradesh, 2003 CrLJ 2536: 2003 AIR SCW 2483: (2003) 9 SCC 86

³ Awadhi Yadav v. State of Bihar, AIR 1971 SC 69: 1971 CrLJ 23: (1971) 2 SC Cri R 141

inferred from the proved facts. A false plea of *alibi* could be an important link. Where the various links in the chain are themselves complete, then the false plea or false defence may be called in aid as an additional circumstance strengthening the chain of circumstances already established.⁴

- (d) In drawing those inferences or presumptions, the court must have regard to the common course of events and human conduct in their relation to the fact of the particular case. (see section 144 of Evidence Act)
- (e) Where the circumstances are susceptible of two equally possible inferences, the court should accept the inference which favours the accused, rather than an inference which goes in favour of the prosecution.⁵
- (f) If the genesis of occurrence is not available because no witness to that part of the occurrence is available, the only direct version of the genesis would be found in the statement of the accused if he chooses to give version of his occurrence. His statement has to be considered in the light of the evidence adduced by the prosecution and weighing his statement with the probabilities of the case either in his favour or against him.⁶
- (g) Motive is the most important ingredient to prove in the case where the fact of the case is to be weighed on circumstantial evidence, and therefore it is indispensable.⁷ Failure to prove motive is not fatal by itself. All that the absence of motive results in is that the court shall have to be more careful and circumspect in scrutinizing the evidence to ensure that suspicion does not take the place of the proof while finding the accused guilty. Absence of motive is a factor that shall weigh in favour of the accused, but what the courts need to remember is that motive is a matter which is primarily known to the accused and which the prosecution may at times find difficult to explain or establish by substantive evidence.⁸

⁴ G. Parshwanath v. State of Karnataka, AIR 2010 SC 2914; 2010 AIR SCW 5052; (2010) 8 SCC 593

⁵ Sharad Biridhichand Sarda v. State of Maharashtra, AIR 1984 SC 1622; (1984) 4 SCC 116; 1984 Cr LJ 1738; M.G. Agarwal v. State of Maharashtra, AIR 1963 SC 200 : (1963) 1 Cr LJ 235; (1963) 2 SCR 405; Pohalya Motya Valvi v. State of Maharashtra, AIR 1979 SC 1949; 1979 Cr LJ 1310; (1980) 1 SCC 530

⁶ State of Himachal Pradesh v. Wazir Chand, AIR 1978 SC 315; (1978) 1 SCC 130; 1978 Cr LJ 347

⁷ Govinda Reddy v. State of Mysore, AIR 1960 SC 29 : 1960 Cr LJ 137

⁸ Amitava Banerjee v. State of West Bengal, AIR 2011 SC 2913; 2011 AIR SCW 4793; (2011) 9 SCALE 185