



FACULTY OF JURIDICAL SCIENCES

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Lecture-7



Relevancy of Fact

Facts which are occasion, cause or effect of facts in issue (Section 7):

Facts which are the occasion, cause, or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

These facts are those which provide either occasion or cause or create effect over 'facts in issue'. For example in murder case, 'presence' of accused and victim at the place of occurrence at same time or accused 'having gun', at given time, or 'altercation between' accused and victim are the facts proving occasion, and thus they are relevant in this section. 'Firing' of bullet is cause of death, so 'firing' as such is a relevant fact; 'firing of bullet' may have effect of causing death or serious injuries, here injuries or death is effect of 'firing of bullet', so such injuries are relevant facts.

Illustrations

- (a) The question is, whether A robbed B. The facts that, shortly before the robbery B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third persons, are relevant.
- (b) The question is, whether A murdered B. Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.
- (c) The question is, whether A poisoned B. The state of B's health before the symptoms ascribed to poison and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

Motive Preparation and Conduct

Section 8 of the Indian Evidence Act talks about the importance and of motive, preparation, conduct(previous & subsequent) in various cases. And it is a well-known fact that Motive & Preparation are among the first act before any conduct. Therefore Section 8 explains the importance of motive, preparation and conduct where there are no direct evidence and the facts are proven on the basis of circumstantial.

Motive- The general meaning of '*Motive*' a purpose, or objective to obtain something. The Supreme Court of India defined motive is something which induces or activates a person to make an intention and knowledge, with respect to awareness of consequences of the act.

The relevancy of Motive under the Act:

As in the above discussion we have already seen that Motive is the main inducing force which induces a person to do some act. It is expressed that if the offence has been commenced voluntarily then could be no possibility of the absence of motive. Although it is very difficult to obtain the evidence of motive still evidence of motive becomes very important in the case of circumstantial evidence. The Supreme Court in the reference of motive said that '*if the witnesses of any case are trustworthy and have enough credibility then the motive of any act done by the offender has no such importance*'.

Although motive and intention are the same there is a thin line of difference between them that intention is the pre-calculation or knowledge of ascertained consequences in the mind of the offender. In some cases, it is observed that sometimes motive behind the execution of a crime may be good but the intention is always bad or guilt-oriented.

In, **Kundula Bala Vs State of A.P, 1993 Cr LJ 1635 SC** The son-in-law before his marriage demanded a piece of land from the deceased. But after the marriage, the deceased refused to transfer the ownership of the property and expressed that he would give this property to his daughter. Such inferences of the father in law induced the accused in committing a crime and after some time the crime commenced. The court observed that there is a strong motive with the accused of committing the crime as the father in law refused to transfer the property in the accused name.

In, **Gurmej Singh Vs State of Punjab AIR 1992 SC 214** The deceased has won the election against the accused. It is also seen that they don't have good relations between and they have always had a quarrel with each other. The reason behind frequent quarrels was that the accused diverted dirty water stream towards the house of the deceased. The court observed that there were pending litigation between them and dirty water stream induced the frustration between

them. After the death of the deceased, the Court concluded that dispute related to the passage of dirty water could be the motive of the murder.

In, **Rajendra Kumar Vs State of Punjab AIR 1966 SC 1322** The Court held that the accused can only be convicted if the prosecution completely proves the motive and provide the supporting evidence to establish the commission of the offence by the accused.

Preparation

The Supreme Court of India interpreted '*preparation*' as a word which denotes the action or preparation of any act and also those components which are prepared. Preparation includes arranging the essentials objects for the commission of a crime/offence.

Evidence tending to show that the accused had prepared for the crime is always admissible. Preparation does not express the whole scenario of the case rather preparation is only subjected to the arrangements made in respect of committing any act. Further, there is no mandate that preparation is always carried out but it is more or less likely to be carried out. It is very difficult to prove preparation as there is no mandate that preparation is always carried out for the purpose of committing any crime. It is mostly observed that the Court draw inference with certain facts in establishing or ascertaining the preparation of crime committed.

In, **Mohan Lal Vs Emperor[AIR 1937 Sind 293** The accused was charged for cheating as he was importing goods in Karachi port from Okha port without paying the proper custom duty as he made some arrangements with the customs department. The prosecution showed enough evidence to prove the preparation by the accused in avoiding the import duties. The Court held that the act by the accused was completely wrongful and are prohibited by the law hence the accused is liable for preparation.

In, **Appu Vs State 8. AIR 1971 Mad 194** The four accused arranged a meeting to make essentials arrangements for commencing crime. Certain facts related to the objective of the scheduled meeting were admitted which showed preparation on their part. The preparation was

administered clearly that it is an intention to commit burglary and the accused were waiting for the right time to get the best opportunity to execute their preparation.

Conduct-

Section 8 of The Indian Evidence Act also defines '*conduct*', conduct here means an external behaviour of a person. To check if the conduct of a person is relevant to the incident then the court must establish a link between the conduct of a person who committed the crime and the conduct of incident. The most important role of this part is that the relevant conduct must bring the court to a conclusion of the dispute. If the Court came to a conclusion then the conduct was previous or subsequent, it shall be checked properly by the Court. It is very clear that conduct is one of the very important evidence explained under Section 8 and such importance is only considered when this conduct is in direct form, otherwise, if the conduct is recognised indirectly then it will lose its importance.

In, **Bhamara Vs State of M.P AIR 1953** Bhopal 1. a person X was farming on his land, on seeing another person standing near to his place he called the person for some conversation. After a few moments, the conversation turned into arguments and ended up into a fight. On seeing such activity other people came to the place of incident to stop the fight but subsequently, the offender tried escaping. But the offender was caught by some other person. The Court found that the conduct of escaping of the offender was relevant subsequent conduct.

In, **Nagesha V. State of Bihar AIR, 1996 SC119** it was held by the Court if the first information is given by the accused himself, the fact of his giving information is admissible against him as evidence of his conduct.