



FACULTY OF JURIDICAL SCIENCES

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COURSE: B.B.A.LL.B. VI Semester

SUBJECT: Law of Evidence

SUBJECT CODE: BBL 604

Lecture-8



Relevancy of Facts

Identification of Parade:

Identification is an important process in the administration of justice. Where the Court has to know the identity of anything or any person, any fact, which establishes such identity, is relevant. The identity of person can be established by the evidence of persons, who know him. Identification parades are held for the purpose of identifying the persons concerned in an offense or the properties, which are subject matter of an offense.

During the course of investigation test identification parades are arranged by the police either in jail or at some other place. Certain persons are brought to such a place and the accused person mixed with them. In case of Property, the property recovered is mixed with some other properties / articles of similar description. Then the Magistrate or the Panch witnesses will ask the witness to identify the property in question or the accused person. Under Section 9 the evidence given by such witness is relevant.

Section 9 Provides for the Identification "parade of persons" The purpose of Identification test is to test the memory and veracity of a witness, who claims to identify an accused person, who is said to have participated in a crime.

Section 9. Facts necessary to explain or introduce relevant facts

Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Illustrations

(a) The question is, whether a given document is the will of A.

The state of A's property and of his family at the date of the alleged will may be relevant facts.

(b) A sues B for a libel imputing disgraceful conduct to A; B affirms that the matter alleged to be libelous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(c) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant under section 8, as a conduct subsequent to and affected by facts in issue

Conspiracy-

Conspiracy means few people come together to do an act with common intention. So in the same context, a criminal conspiracy is the act of at least two or more persons to do an act which is not authorised by the law i.e., an illegal act, or to do a legal act by illegal means. Criminal Conspiracy is a kind of partnership in crime, and every member of such partnership must join the partnership by mutual agreement for executing a common plan.

There are two relevant provisions which deal with the criminal conspiracy i.e., Section 120(A) of the Indian Penal Code and Section 10 of the Indian Evidence Act talks about the things said or done by a conspirator.

Essentials of Criminal Conspiracy u/s 10 of the Indian Evidence Laws:

1. There should be reasonable grounds to establish a conspiracy.
2. There should be at least two or more persons to form a conspiracy.
3. There should be a common intention of all the conspirators.
4. Acts or Statement of the conspirators.
5. The acts or statements of the conspirators must be in reference to common intention.

In, **State of Tamil Nadu v. Nalini AIR 1999 SC 2640** the court held that once any of the participants of conspiracy execute the conspiracy then his statements made by him cannot be used against other conspirators according to Section 10 of the Indian Evidence Act.

In **Subramaniam Swamy v. A Raja (2012) 9 SCC 257** the court in its judgments showed that anything which is doubtful cannot be considered as legal proof and such proofs are insufficient to prove any criminal conspiracy.

When Facts not otherwise relevant become relevant(Section11)

Plea of Alibi-

The word '*Alibi*' is derived from the Latin word, which means '*elsewhere*'. Section 11 of the Indian Evidence Acts explains the concept of '*Facts not otherwise relevant become relevant*' and makes the provision as a defending ground for the accused. The simplest meaning of this section is a condition when the incident took place and the accused is charged for the incident then he may make defend him on explaining that at the time of the incident he was not present at the location. Although previously it was not relevant for the court to know that where he was as the investigation showed that he committed the crime but his explanation that he was not at the place of incident make the irrelevant facts a relevant fact. The important part of Section 11 of the Evidence Act is that this rule is only accepted in the course of admission of the evidence and no other statute provides such rule.

The plea of alibi has to be taken on the very first stage of the trial and must be proved without any reasonable doubt as the burden of proof is on the person who is taking advantage of Section 10 i.e., *Plea of Alibi*.

Essentials of Plea of Alibi:

1. There must be an offence punishable by the law.
2. The person taking the defence of Section 10 should be accused of that particular offence punishable by the law.
3. The defence must be satisfactory and beyond any reasonable doubt.
4. The defence must be backed by evidence.

In, **Lakhan Singh @ Pappu vs The State of NCT of Delhi Delhi HC Crl Appeal No. 166/1999** A plea of alibi cannot be compared with a plea of self-defence although both the plea is to be taken on the very first instance of the court proceedings.

In, **Sahabuddin & Anr vs the State of Assam Criminal Appeal No. 629 of 2010** Once the court is in doubt with respect to plea of alibi and the accused does not give any substantive explanation to support his statement under Section 313 CrPC, then the Court is authorised to conclude a negative or not a positive inference against the accused.

In, **Jitender Kumar v State of Haryana (2012) 6 SSC 2014** the Court not believing the plea of alibi as the accused did not provide the sufficient supportive evidence for establishing the defence. And the Court supported the case from the prosecution side.