
BEYOND A REASONABLE DOUBT? A CRITICAL ANALYSIS OF CIRCUMSTANTIAL EVIDENCE AND HOSTILE WITNESSES

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ABSTRACT

The principle of proof beyond reasonable doubt is the fundamental principle of criminal justice. In India, it often gets complicated by gaps in investigation, and hostile witnesses, particularly in cases solely reliant on circumstantial evidence. This research will examine how procedural irregularities, gaps in the recovery/collection of evidence, lapses in test identification parades, and chain of custody undermine the evidentiary basis. It will also explore how hostile witnesses, usually with little protection and other witness intimidation, corrode the corroboration of testimony. By undertaking a rigorous analysis of landmark case law, and reconciling this with recent legislative developments, including the Bharatiya Nyaya Sanhita (2023) and the Witness Protection Scheme, the research will highlight how these interrelated issues potentially undermine prosecution cases. The research concludes with the acknowledgement that improving investigative integrity, witness protection, and developing a robust system of judicial scrutiny is crucial for ensuring fair trial rights, minimising wrongful convictions, and protecting the procedural integrity of criminal adjudication. This paper will put forward a co-ordinated intervention agenda with the aim to develop procedural safeguards and evidentiary standards, pursuing constitutional obligations for procedural justice, and public confidence in the Indian criminal justice system.

Keywords: Circumstantial evidence, witness hostility, investigative lapses, witness protection, fair trial, criminal justice reform, proof beyond reasonable doubt, procedural safeguards

CHAPTER – 1

Introduction

The cornerstone of criminal justice worldwide is the principle that guilt must be established *beyond reasonable doubt*. This standard is not merely a procedural formality but a fundamental safeguard designed to protect individuals from wrongful conviction and ensure that only those whose guilt is proven with the highest degree of certainty are deprived of liberty. The principle places the burden firmly on the prosecution to prove the accused's guilt comprehensively, and it embodies the legal maxim that it is better that ten guilty persons escape than that one innocent suffer.

In the Indian legal system, the Indian Evidence Act, 1872, has historically been the principal statute framing the procedures for the production, evaluation, and appreciation of evidence in criminal trials. The Act details the types of admissible evidence, including direct and circumstantial evidence, and prescribes the methods by which witnesses are examined and cross-examined. It also provides specific provisions related to hostile witnesses—those who, after initially supporting the prosecution, retract or contradict their testimony, thereby potentially undermining the integrity of the case.

Despite the foundational role of the Evidence Act, the application of its provisions has encountered perennial challenges. Notably, the appreciation of circumstantial evidence demands an exacting standard: courts require a *strict and unbroken* “*chain of circumstances*” that conclusively points to the accused's guilt while excluding any other reasonable hypothesis. This requirement is essential to prevent miscarriages of justice, especially since circumstantial evidence deals with indirect factual inferences rather than direct observations. However, judicial approaches to this principle have been inconsistent at times, with variability in how rigorously the chain is enforced, occasionally resulting in wrongful convictions or acquittals.

Similarly, the management of hostile witnesses poses significant procedural difficulties. Witness hostility may arise from intimidation, coercion, or simple reluctance, but its consequence is profoundly disruptive—the erosion of critical testimonial evidence that can make or break a case. The absence of robust mechanisms for witness protection and the lack of clear procedural guidance have often allowed such hostility to undermine prosecutions,

contributing to high acquittal rates in India.

The Bhartiya Sakshya Adhiniyam (BSA), promulgated as part of the comprehensive Bharatiya Nyaya Sanhita reforms in 2023, offers an effort to rejuvenate and modernize India's evidentiary framework. It aims to harmonize the classical principles enshrined in the Evidence Act with contemporary realities by introducing enhanced procedural safeguards, clearer evidentiary guidelines, and novel protections to improve witness reliability and evidence evaluation. The BSA acknowledges the critical need to balance the imperatives of truth, justice, and fairness, emphasizing procedural clarity and witness security as essential pillars of fair trials.

Objective of the Study

1. To examine how investigative lapses and witness hostility undermine the reliability and completeness of circumstantial evidence.
2. To Strengthen investigative integrity, witness protection and evidence evaluation for ensuring fair and just criminal adjudication.

Research Problem

This ideal often faces erosion due to the combined effects of investigative lapses and witness hostility. Improper or incomplete investigations can weaken the evidentiary foundation, while hostile witnesses—frequently the result of intimidation, lack of adequate protection, or trial delays—undermine the prosecution's ability to corroborate evidence, thereby weakening cases materially.

Research Question

1. How do investigative lapses compromise the reliability of circumstantial evidence?
2. In what ways does witness hostility interact with investigate weaknesses to thwart prosecution efforts?
3. What judicial and legislative measures can effectively address these challenges within the framework of Indian criminal law?

Hypothesis

1. Investigative lapses such as improper evidence recovery and failure to conduct proper Test Identification Parades significantly weaken the chain of circumstantial evidence, thereby reducing the probability of prosecution success beyond reasonable doubt in Indian criminal trials.
2. Witness hostility, stemming from factors like intimidation or inadequate protection, interacts synergistically with investigative deficiencies to undermine the reliability of prosecution evidence, leading to a higher incidence of acquittals despite the presence of otherwise strong circumstantial evidence.

Research Methodology

This research employs a multi-pronged methodology to comprehensively analyse the challenges and principles surrounding circumstantial evidence and hostile witnesses in Indian criminal law. It includes a detailed examination of landmark case law, and other seminal judgments that establish the evidentiary requirements and judicial standards for circumstantial proof. Additionally, the study scrutinizes key statutory provisions from the Indian Evidence Act, 1872, focusing on sections related to evidence appreciation, witness examination, and procedural safeguards. To broaden the perspective, comparative analyses of reforms and practices from other common law jurisdictions are incorporated to identify best practices and potential reforms suited to the Indian context. This multi-faceted approach ensures a rigorous and holistic evaluation of the subject.

CHAPTER – 2

Literature Review

1. “Brief Analysis of Circumstantial Evidence”

[Author: - Manasvita] [Source: - Indian Journal of Integrated Research in law]

This article critically examines the concept of circumstantial evidence, emphasizing that it relies on an unbroken and complete chain of facts that logically exclude any reasonable hypothesis other than the guilt of the accused. It highlights the essential judicial requirement

that each link in this chain must be firmly established beyond reasonable doubt to prevent wrongful convictions. The article critiques inconsistent judicial applications where gaps or weaknesses in the chain have led to acquittals or miscarriages of justice. It further underscores the vital role of corroborative evidence, such as forensic reports, to strengthen and validate the circumstantial links, thereby ensuring the principle of proof beyond reasonable doubt is upheld with due caution.

2. “Hostile Witnesses and Evidentiary Value of their Testimony under the law of evidence”

[Author: - Dr. Shabnam Mahlawat] [Source: - ILI Law Review Vol. II]

The article critically explores the challenges posed by hostile witnesses in Indian criminal trials, focusing on their impact on the prosecution's case. Under Section 154 of the Indian Evidence Act, 1872, a party calling a witness who turns hostile may, with court permission, cross-examine that witness as if they were an adverse party. However, declaring a witness hostile requires judicial discretion and is based on the witness's unwillingness to support the calling party's case, often due to intimidation or coercion. The article emphasizes that while hostile witness testimony is viewed with suspicion, it is not automatically discarded; courts are mandated to scrutinize such evidence carefully and can consider it if corroborated by other reliable evidence. Landmark judgments establish that hostile witness testimony does not vanish from the record but must be weighed cautiously, ensuring the pursuit of truth and fairness in the trial process. The piece also discusses legislative and procedural safeguards aiming to mitigate witness hostility and uphold the integrity of criminal trials in India. This article provides a nuanced view of the evidentiary treatment of hostile witnesses, emphasizing judicial safeguards and the importance of corroboration to sustain prosecutions without compromising fairness.

3. “Witness Protection Jurisprudence in India: A Critical Analysis”

[Author: - Sinya K] [Source: - Journal of Research in Humanities and Social Science]

The article provides a comprehensive overview of the current legal framework for witness protection in India, emphasizing the critical role witnesses play in the criminal justice system. It discusses judicial perspectives on managing hostile witnesses and the need to safeguard them

against threats, intimidation, and coercion to ensure free and truthful testimony. The paper analyses key Supreme Court rulings, which recognized the Witness Protection Scheme of 2018 as binding law until formal legislation is enacted. It highlights institutional mechanisms such as district-level competent authorities responsible for implementing the scheme, including measures for concealing witness identity and providing physical security. The article critiques the gaps in effective implementation and calls for strengthened statutory protections covering physical, psychological, and financial support. It underscores the necessity of a robust and enforceable witness protection framework to uphold fair trial rights, prevent trial manipulation, and strengthen the rule of law in India.

4. “A Critical Study Of the value of evidence Brought Under Section 154 of the Evidence Act”

[Author: - Bramha Kishore] [Source: - Journal of the Indian Law Institute]

The article talks about Section 154 of the Indian Evidence Act, 1872, empowers the court to allow a party to cross-examine its own witness if that witness is declared hostile or unwilling to cooperate. The discretion to treat a witness as hostile lies with the court and arises when the witness retracts earlier statements or gives testimony unfavourable to the party that called them. However, a witness is not hostile just because their evidence goes against the calling party; hostility is shown through their unwillingness to tell the truth or antagonistic behaviour. Importantly, hostile witness testimony is not automatically discarded—courts evaluate its credibility and may rely on it if corroborated by other evidence, ensuring fairness in the trial process. This provision balances the need to challenge adverse testimony while upholding truth-seeking in criminal trials.

5. “Wrongful Convictions: Beyond Circumstantial Evidence and Psychological Bias Towards Direct Evidence”

[Author: - Lokinder Sharma and Abhijith]

This article examines the persistent judicial preference for direct evidence over circumstantial evidence in Indian legal proceedings, particularly in criminal convictions, despite the absence of any explicit mandate in law or Supreme Court rulings. Tracing the historical debate on evidence evaluation, it highlights how the Indian Evidence Act, 1872—now replaced by the

Bharatiya Sakshya Adhiniyam, 2023—emerged from longstanding discussions on whether evidence should be assessed through strict hierarchies or broader standards of relevancy. Indian courts continue to display a marked preference for direct evidence, viewing it as offering greater certainty, while treating circumstantial evidence as inherently probabilistic and less reliable. The article argues that this tendency cannot be explained merely by legal provisions, but rather stems from deeper judicial attitudes and structural factors that shape the assessment of evidence and the determination of guilt.

CHAPTER – 3

Discussion and analysis

Investigative Lapses: The foundation of evidentiary collapse

Investigative deficiencies are likely to be very detrimental to the strength of prosecution cases based solely on circumstantial evidence, and this experience often leads to either acquittal or wrongful conviction.¹ The Indian Evidence Act, in Section 27 also permits discovery of evidence two days later based on information that the accused had provided; however, the stipulated lack of compliance to an investigation process is troubling and if rules are to be followed in court then they must be observed throughout the entire investigative process. Courts have stated that strict procedural adherence is paramount to legitimacy, and unreasonable actions in gathering or construction of investigative case documentation will likely lead to any evidence being excluded or if admitted, given no more than nugatory weight. Strict verification or corroboration of evidence is preparatory to validate circumstantial evidence and in *Pulukuri Kottaya v King Emperor* the court specifically highlighted the directness of the statement leading to the discovery and the necessary corroboration of that discovery later in their decision.² If there is inconsistency in there and others evidence to confirm recovery or firm mismanagement in the sequence of events or chain of custody by the police or the testimony of the witness as to the recovery, then the prosecution evidentiary value was not realizable.

If the police fail to conduct Test Identification Parades (TIP), then all of this effort cannot be realized since they will return empty handed, as the courts deem that TIP is very important

¹ BRIEF ANALYSIS OF CIRCUMSTANTIAL EVIDENCE.

² AIR 1947 PC 67

safeguard by obtaining prior identification that is reliable. The Supreme Court of India in ***Dana Yadav @ Dahu v. State of Bihar (2021)*** has said that a court cannot rely even on identification in a court without the reliability of a TIP, and any reliable identification is often compromised especially when there are large gaps between the incident and the trial.³

Likewise, the lack of TIP is often grounds for acquittal, due to the weak link of identification, as noted by the Supreme Court in ***Rameshwar Singh v. State of Jammu & Kashmir***.⁴

Chain of custody issues increase the likelihood of tampering or destruction of evidence, which is important in evidentiary terms when physical or forensic evidence is the foundation for prosecution. An unimpeachable chain of custody depends on good inventory keeping, independent witnesses to the investigation, and clear and consistent documentation of the investigation, as supported by the courts in a number of various decisions. Without these safeguards, circumstantial evidence has no importance, leading to negligent investigations to be the foremost reason for prosecution failure.⁵

Witness Hostility: Weakening the Chains

Witness hostility continues to be among the major obstacles to successful criminal prosecution in India. Witnesses become hostile under various circumstances which include fear, pressure, intimidation, coercion, and lack of witness protection policies. In most cases, hostility will come in the form of a witness denying their previous statements, refusal to testify altogether or giving contradictory statements to the prosecution evidence that will seriously undermine or compromise the prosecution evidence. The Indian Evidence Act can anticipate this by virtue of section 154 of the Act. Once the court has ruled that it has been told that hostile witnesses, any party calling them can examine their evidence as if they are adverse witnesses. Judicial decisions indicate caution in accepting or relying upon such evidence and hostile witness evidence ought to be placed with corroboration and particular caution prior to being accepted.⁶

³ (2007) 7 SCC 295

⁴ (2005) 11 J&K CK 0024

⁵ *Principles Governing Circumstantial Evidence for Conviction*, SUPREME COURT OBSERVER, <https://www.scobserver.in/supreme-court-observer-law-reports-scolr/shail-kumari-v-state-of-chhattisgarh-principles-governing-circumstantial-evidence-for-conviction/> (last visited Aug. 24, 2025).

⁶ *Reliance on Corroborated Statements by 'Hostile' Witnesses*, SUPREME COURT OBSERVER, <https://www.scobserver.in/supreme-court-observer-law-reports-scolr/k-p-tamilmaran-v-statereliance-on-corroborated-statements-by-hostile-witnesses/> (last visited Aug. 24, 2025).

Hostile witness evidence compounds the disadvantages as a result of the deficiencies inherent in investigative agencies. Once a witness turns hostile and retracts evidence or states under oath that their previous statement is not true, the circumstantial chain is Similarly broken. This can easily lead to acquittals and wrongful convictions especially after procedural deficiencies in the investigative process and treatment of evidence.

The Supreme Court's endorsement of a comprehensive Witness Protection Scheme is further evidence of the growing awareness of this problem. The primary goal is to reduce hostility and provide ways for witnesses to participate in the judicial process without threat of harm. Witnesses remain vulnerable to threats and intimidation if there are no sufficient protections in place, which enhances a negative cycle where witness hostility impedes the administration of justice and undermines a prosecution's case.

In *Paramjeet Singh v. State of Uttarakhand*⁷, the Supreme Court underscored that hostile witnesses' statements should be approached with caution and not serve as the sole basis for conviction without corroboration. The court in *State of Uttar Pradesh v. Ramesh Prasad Misra* cautioned against "cherry-picking" favourable portions while disregarding exculpatory parts.⁸

Different countries handle hostile witnesses in varying ways: in common law countries like India, the US, and the UK, the parties play a large role in challenging hostile witnesses through cross-examination; in civil law countries like France and Germany, judges take a more active role in questioning and assessing the witness's credibility to get to the truth, aiming to reduce adversarial conflict and protect witness integrity. All these approaches strive to balance fair trials with the challenge of unreliable or uncooperative witnesses.⁹

Absence of Direct Evidence and Weak Corroboration

In criminal law direct evidence such as eyewitness testimony, or confessions is typically considered the highest quality evidence of guilt. However, many criminal cases especially those dealing with serious crimes such as murder will have no direct eyewitnesses, so the courts must primarily rely on circumstantial evidence.

⁷ (2010) 10 SCC 439

⁸ (1996) 10 SCC 360

⁹ash, *Hostile Witnesses and The Crisis of Credibility: A Comparative Legal Perspective*, IJLSSS (Jul. 22, 2025),

The Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*¹⁰ laid down five golden principles requiring that circumstantial evidence must be complete, consistent, conclusive, exclude all other reasonable hypotheses, and leave no reasonable ground for acquitting the accused. Medical or forensic evidence, though important, remains corroborative and insufficient alone to establish guilt.

This reliance requires very high legal standards: all the circumstances must together create a consistent, unbroken chain that rejects every reasonable hypothesis of the accused's innocence. Corroborative evidence—such as forensic tests, medical reports, or expert opinion—will assist in supporting a jury verdict, but are otherwise inadequate to support a conviction.

Medical evidence usually, to some extent, establishes cause of death, or mechanism of injury, but does not help to identify who committed the injury or murder, nor can it infer intention.¹¹ Forensic evidence provides scientific credibility, but this evidence will also again rely on strict procedures for investigating and collecting evidence. Courts want to show caution in what they will permit to be considered as specific instances of evidence and insist that these instances only assist in supporting testimonial evidence and circumstantial evidence.

Leading decisions, such as *Hanumant Govind Nargundkar v. State of M.P.*¹² and *Navaneethakrishnan v. State of Tamil Nadu*¹³, emphasized that circumstantial evidence must exclude every possibility of innocence, and where the degree of certainty of that exclusion does not exist, will result in an acquittal, as it reflects the commitment of the judiciary to maintaining the test of proof beyond reasonable doubt.

Consequently, the absence of direct evidence, distorted by weak corroboration will disrupt the evidentiary chain and open prosecutions to be thrown out over the single standard as set out to be maintained by Indian criminal jurisprudence.

Motive and the Last seen theory: Insufficiency and inference

Although motive is a material element of a crime in criminal prosecutions, it cannot independently establish guilt. To courts, motive is simply an additional, but not necessary, link

¹⁰ 1985 SCR (1) 88

¹¹ M Athma Rubavathi & A Jeffry Andrew, *IMPORTANCE OF CIRCUMSTANTIAL EVIDENCE IN CRIMINAL CASES*, 24 (2021).

¹² AIR CRI LJ 129

¹³ AIR 2018 SC (CRIMINAL) 642

in the chain of circumstantial evidence. In other words, if motive does not exist or a credible source of evidence refutes motive, then it weakens the prosecution's case and, consequently, requires more and stronger circumstantial facts to prove the prosecution's version of events than if it had motive to work with has been held in the *State of U.P v. Kishanpal*¹⁴

In the "last seen" hypothesis, it means that if the accused was last seen with the victim close to the time of the crime, then it elevates to the possibility that they are guilty. Nevertheless, this doctrine came with caution in Indian Courts.¹⁵ The Supreme Court and several High Courts stated that "last seen" evidence must be temporal (before the crime) and coupled with additional incriminating facts.¹⁶ Therefore, when there is a substantial lapse in time, unreliable identification, or plausible alternative theories about pre-existing injuries, the "last seen" hypothesis is unsafe as the foundation for a conviction.

The latest discussion and case-law are generally cautioning against the mechanical application of the "last seen" theory as an independent form of evidence, and highlighting a need of full consideration of all evidence in any case. Additionally, the courts would ensure that the concept of "last seen" is understood in the context of the whole of other corroborated facts, and a reasonable degree of diligence is maintained in establishing the elements of a criminal conviction in general.

Systemic Issues and Judicial Response

Serious institutional deficiencies—such as police officer undertraining, insufficient forensic support and manpower, accidental rule breaches and prolonged trial processes— hamper investigations and create witness intimidation. These limitations hinder high-quality evidence collection, exacerbate hostility, and hinder the judicial search for justice.

Scholarly work on wrongful convictions identifies that crime fact finders suffer from cognitive biases—attributing significance to direct eyewitness testimony and discounting circumstantial evidence or failing to identify deficiencies in an investigation. We must acknowledge this

¹⁴ (2008) INSC 919

¹⁵ The Indian Lawyer, *The Last Seen Moment: Evidence and Implications in Criminal Cases - The Indian Lawyer*, (Mar. 15, 2025), <https://theindianlawyer.in/the-last-seen-moment-evidence-and-implications-in-criminal-cases/>.

¹⁶ Arjun Punaji, *Beyond Mere Presence: A Critical Look at the "Last Seen" Theory in Circumstantial Evidence Contents* (Feb. 10, 2024), <https://papers.ssrn.com/abstract=4887454>.

cognitive phenomenon and examine the standards of proof and the doctrinal approach for assessing legal status in circumstantial cases with greater scrutiny and diligence.

Thus, Indian courts have clarified the standards required in criminal cases, of evidence, enhanced witness protection, and structural reform in the legislature. Ultimately, the courts and the emerging statutory and policy measures to promote and enforce prosecutorial accountability, proper judicial supervision of investigations, and witness protection programs represent globally relevant best practices for comprehensive reforms in the criminal justice system.

Judicial activism regarding the enforcement of Article 21 rights, with the contemporary legal frameworks of the Bharatiya Sakshya Adhiniyam and Witness Protection Scheme, represent systemic responses to reduce the uncertainty of innocence and presumptive guilt as well as strengthen legal protections. Taken together, judicial reforms and proposed policy directions promote a fair trial process that is rooted in reliable evidences and procedural due processes.

CHAPTER – 4

Conclusion

This investigation validates that the original hypotheses have been corroborated by an extensive doctrinal and jurisprudential evaluation: investigatory deficiency through procedural or propitious losses compromises the integrity and otherwise completeness of circumstantial evidence; meanwhile, the effects of witness hostility further destabilize evidence through undermining the vital testimonial support required for corroboration.

With respect to investigatory deficiencies which includes instances of bad evidence recovery or the failure to carry out Test Identification Parades (TIP), or instances where there is a chain of custody breach, we have examined how each of these investigatory lapse's results in an evidentiary loss that breaks down the accusatorial structure necessary to secure a conviction to the extremely high standard of beyond reasonable doubt. Judicial precedents like *Pulukuri Kottaya v. King Emperor* and *Dana Yadav v. State of Bihar* illustrate this legal proposition and the judiciary also endorsed the case law on the need for operators of crime to follow investigatory protocols and procedural safeguards.

At the same time, a widespread problem of witness hostility, especially caused by intimidation,

lack of protection and lengthy trials, has been shown to dramatically undermine the prosecution's evidentiary capabilities. The judicial endorsement in *Paramjeet Singh v. State of Uttarakhand* and a nationwide Witness Protection Scheme supported by the Supreme Court (*Mahender Chawla v. Union of India*) highlight how critical it is to protect witnesses in order to protect the sanctity of their testimony. Without this protection, hostile witnesses stop the prosecution's ability to corroborate physical or circumstantial evidence, adding to acquittals and wrongful convictions.

The research questions considered here - how can the compromising nature of an investigatory failure affect the reliability of evidence and its interdependence on witness hostility to undermine prosecutions, and what have the courts presented in terms of potential judicial and legislative solutions? - have been successfully answered. The current legal regime, surrounded by ongoing reforms such as those being made with the *Bharatiya Nyaya Sanhita* (2023) emphasizing protections and certainty on the procedures involved in trials, only suggest pragmatic solutions in how best to proceed in the midst of the witness safety challenges faced in practice, but nevertheless, issues in a systemic operationalized sense suggest a continued need for reform and vigilance on the part of the courts.

In conclusion, only by enhancing investigative discipline, enforcing effective witness protection, and maintaining rigorous judicial scrutiny can the Indian criminal justice system uphold its constitutional commitment to fair trials and the principle of proof beyond reasonable doubt. This multipronged approach is indispensable to reinforce public confidence, prevent wrongful convictions, and ensure that justice is truly served.