
PROOF PROBLEMS IN BLACK-MAGIC PROSECUTIONS UNDER THE BHARATIYA SAKSHYA ADHINIYAM (BSA): CAUSATION, MEDICAL CORROBORATION, EXPERT EVIDENCE, AND GUARDRAILS AGAINST MORAL PANIC

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ABSTRACT

This paper builds a trial-ready proof architecture for prosecutions under Maharashtra's Black-Magic Act by tightly coupling the elements of the scheduled offences with the rules of evidence in the Bharatiya Sakshya Adhiniyam (BSA). It shows how courts should:

1. particularise the charge to a specific Schedule entry and insist on element-by-element proof;
2. handle causation through stepwise, conditionally relevant intermediates (e.g., denial of treatment → sepsis → danger to life) rather than conclusory “occult” narratives;
3. demand medical corroboration for alleged harms (injury patterning, timelines, differentials);
4. admit and weigh expert opinion as advisory, not self-proving, with methodology and reasons tested against primary facts; and
5. treat electronic evidence (video/social posts) as backbone material only when certification, continuity and authenticity are proved.

The paper proposes bench-usable fact-finder directions and prosecution/defence checklists that operationalise BSA ss 39–40 (experts), 61–63 (digital records), 104–109 (burdens, including facts especially within knowledge), and 141 (conditional relevance), while giving dispositive force to the Savings clause that shields legitimate religious practices absent injury or exploitation (Maharashtra Act, s 12). The resulting framework delivers accountability for abusive, harmful practices without collapsing into moral panic, aligning evidentiary discipline with constitutional commitments to both bodily integrity and religious freedom (see also *State of H.P. v Jai Lal* (1999)).

Keywords: black-magic prosecutions, Bharatiya Sakshya Adhiniyam (BSA), causation and medical corroboration, expert evidence and digital proof, Maharashtra Black-Magic Act (2013)

1) Introduction: why “proof” is unusually hard here

Prosecutions involving alleged “black-magic” or occult rituals force courts to navigate three overlapping proof traps. First, causation is often asserted in non-ordinary ways (e.g., a ritual “caused” illness, death, infertility, or financial ruin), demanding careful separation of superstition from legally cognisable cause-in-fact. Second, the offences in Maharashtra’s 2013 statute hinge on specific scheduled acts and on harm (bodily injury, danger to life/health, or financial loss) in several sub-clauses—so medical and documentary corroboration of those harms matters. Third, expert evidence (medical, psychological, digital forensics, anthropology/theology) is simultaneously indispensable and limited: under BSA it remains opinion, not conclusive proof.

This paper offers a proof blueprint, grounded in the Bharatiya Sakshya Adhiniyam, 2023 (BSA) and the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 (“Maharashtra Black-Magic Act”), with targeted guidance on causation frames, medical corroboration standards, electronic evidence, and moral-panic firewalls for trial courts.

Statutory anchors used throughout: BSA s 39 (opinions of experts), s 40 (facts bearing on expert opinions), ss 61–63 & Schedule (electronic/digital records and the certificate regime), ss 104–109 (burden of proof), s 119 (permissive presumptions), s 141/“judge to decide admissibility” (conditional relevance), and the 2013 Act ss 2–6, 10–12 with the Schedule of prohibited practices (cognizable, non-bailable; savings for legitimate religious practices).

2) The offence canvas: what exactly must be proved?

2.1 The Maharashtra Black-Magic Act is act-specific and harm-sensitive

Section 3 criminalises commission, promotion, propagation or practice of acts mentioned in the Schedule. Several entries expressly speak to danger to life or grievous hurt, preventing medical treatment, sexual exploitation under occult pretexts, financial deception via miracle claims, etc. Offences are cognizable and non-bailable; abetment/attempt are equally

punishable; Magistrate's jurisdiction is fixed; a Vigilance Officer is designated to detect/collect evidence; search/seizure powers are provided.

Critically, Section 12 (Savings) exempts legitimate religious practices (e.g., pradakshina/yatra, haripath/kirtan/pravachan, ordinary prayers/rites, festivals, ear/nose piercing, certain Jain rituals, astrology/vaastu advice, etc.)—so harm and the fit within the Schedule are the legal gates, not mere religiosity. Recent Bombay High Court commentary reiterates this line: the Act targets harmful, exploitative practices, not protected rituals (Bombay HC, Apr 2025).

2.2 Proof consequences

Because liability turns on (a) a listed practice + (b) specified harm/impact (in many entries), prosecutions typically require triangulation:

- (i) occurrence of the enumerated act (witnesses, videos, seized implements),
- (ii) harm/impact (injury, danger, financial loss), and
- (iii) linkage between (i) and (ii) (causation).

3) Burdens and standards under the BSA

The prosecution bears the ordinary burden to prove facts it asserts (BSA ss 104–107). For “facts especially within knowledge”—like unique ritual formulae, concealed implements, or the accused's claim of benign intent—the evidential burden may shift under s 109, without displacing the State's ultimate burden. Courts may also rely on permissive presumptions (s 119) consistent with common human conduct, but these cannot replace proof of Schedule-fit or harm.

Practical upshot: The State must prove a Schedule entry and prove any required harm; defendants may be expected to explain narrow facts peculiarly within their knowledge (e.g., why a victim was denied hospital care), but the bottom-line criminal standard remains with the State.

4) Causation in black-magic allegations: from slogans to proof

4.1 The BSA's relevance architecture supports stepwise causation proof

BSA s 5 lets parties prove “facts which are the occasion, cause or effect” of facts in issue; s 141 (judge to decide admissibility) allows conditional relevance sequencing when intermediate facts (B, C, D) must precede the ultimate causal claim ($A \rightarrow X$). Courts may require proof of intermediates (e.g., denial of antibiotics $\rightarrow$ sepsis $\rightarrow$ death) before receiving the sweeping causal conclusion (e.g., “the ritual killed her”).

4.2 Fit-for-purpose causation frames

- **Injury/danger** (Schedule (1), (3), (5), (8)–(10)): show mechanism (assault/branding/chilli smoke/forced fasting/ingestion), timing, medical findings (lesions, burns, physiological disturbance), and exclusion of alternatives.
- **Withholding medical care** (Schedule (9)): prove foreseeable risk + but-for/substantial-contribution: evidence that refusal probably worsened outcome $\rightarrow$ danger or grievous hurt.
- **Financial deception** (Schedule (2), (5)): prove representation, reliance, inducement, loss; where “miracle” is the hook, expert testimony may contextualise susceptibility but cannot replace primary proof of transaction and loss.

Model judicial finding (illustrative): “I find the State proved (i) the accused conducted ritual X (video; 4 eyewitnesses), (ii) the victim sustained burns (MLC notes; photos), and (iii) those burns came from heated objects applied during the ritual (patterned injuries; soot deposits on seized tongs; FSL). I reject the suggestion of a kitchen accident due to time-stamping and location mismatch.” (BSA ss 39–40 for expert inputs; s 141 for sequencing).

5) Medical corroboration: what “good” looks like (and why it matters)

The Schedule repeatedly references physical injury, danger to life/health, sexual exploitation, prevention of medical treatment, etc. Medical corroboration therefore goes to fact in issue, not cosmetics.

5.1 Core components

- Proximal clinical records (MLC entries, triage notes, vitals, lab panels).
- Injury patterning consistent with alleged ritual (e.g., linear whip marks; thermal contact

burns; chilli smoke–related conjunctival injection/airway irritation).

- Temporal proximity between ritual and presentation.
- Exclusion differentials (accident, dermatologic disease, self-injury).
- Psychiatric input where consent/compulsion, suggestibility, or cultic coercion is alleged (bearing in mind legal vs medical standards).
- Chain of custody for seized implements/fluids (enabled by Act s 6).

5.2 Opinion is not proof: BSA's expert-evidence limits

Under BSA s 39, expert views (forensic medicine, psychiatry, toxicology) are relevant; s 40 allows supporting facts (comparators, literature). But opinion remains advisory; courts must appraise methodology/reasons and cannot convict on naked opinion. The Supreme Court has repeatedly said expert evidence assists but does not decide—e.g., **State of H.P. v Jai Lal** (1999) and later summaries reaffirming that expert opinion requires corroboration and a reliable factual substratum.

6) Electronic and audiovisual evidence: the backbone in ritual-in-public cases

6.1 Admissibility & certification

BSA s 61 eliminates the “digital is different” barrier; s 63 supplies the computer-output path (the new 65B-style regime) and prescribes certificate particulars (now embedded as a Schedule form). Where identity/interpretation of digital content is in issue, courts may also rely on the Examiner of Electronic Evidence (IT Act s 79A)—recognized in BSA s 39(2)—for authenticity or tamper analysis.

6.2 Practical build-out

- **Source capture:** original device custody; hash values; time-sync logs.
- **Provenance:** who recorded; when; uninterrupted chain; any edits.
- **Context:** vantage points; continuous sequences; audio clarity; overlays for gestures/implements.

- **Corroboration:** match injuries, seized objects, and witness accounts to video frames.

Courts in Maharashtra have lately seen video-led cases where public beatings, shoe-forced humiliation, and “exorcism” rituals are recorded; police have even lodged suo motu FIRs when witnesses fear reprisals—illustrating both the power of video and the evidentiary need to prove identity and continuity to meet trial standards.

7) Expert domains likely to be engaged (and how to deploy them)

1. **Forensic medicine/toxicology** (injury mechanisms; airway/ocular effects; thermal/chemical burns; starvation/dehydration).
2. **Psychiatry/clinical psychology** (coercive control, suggestibility, dissociation; but keep “medical insanity” separate from criminal responsibility analysis).
3. **Gynaecology/sexual-assault forensics** for Schedule (11) exploitation claims.
4. **Digital forensics** (authenticity, deep-fake screening, metadata, chain).
5. **Cultural anthropology/religious-studies** to draw lines between protected rites and prohibited practices, using BSA s 43 (opinions on usages/tenets) where necessary to interpret claims and s 12 Savings under the 2013 Act.

Remember: Experts explain; they don’t decide. *Jai Lal* and allied commentary remain the cautionary drumbeat.

8) Avoiding moral panic: a four-layer firewall

8.1 Element-by-element proof

Judges should frame issues against specific Schedule paragraphs and require elemental proof: (i) did this enumerated act occur, (ii) did it cause the specific harm/loss alleged, (iii) is identity proved, (iv) are defences/savings applicable (e.g., Section 12). Generic “occult” labels are not elements.

8.2 Relevance discipline and conditional routes

Deploy BSA s 141 to insist on intermediate facts before allowing ultimate causal narratives;

exclude collateral moralism that risks prejudice but adds little probative value (character gossip, sectarian smears).

8.3 Savings clause literacy

Section 12 of the Maharashtra Act explicitly excludes protected religious conduct absent injury or financial loss. Directions should quote the Savings when charging issues. Recent Bombay HC remarks confirm the Act's purpose-bounded scope.

8.4 Corroboration norms for opinion evidence

Where the State leans on experts (medical/digital), insist on: (i) methodology transparency, (ii) data availability, (iii) cross-domain coherence (e.g., injuries match implements). Opinion ≠ conviction.

9) Proof playbooks by common charge-patterns

9.1 Assault “exorcisms” (Schedule (1), (5), (7), (8))

Proof set: eyewitnesses + continuous video + seized implements (chains/ropes, whips, hot irons) + MLC + forensic residue (soot/thermal residues; capsaicin exposure where chilli smoke is alleged) + timeline tying ritual to injuries.

Notes: Where the State alleges preventing hospitalisation (Schedule (8)/(9) contexts), causation must show foreseeable medical risk aggravated by refusal/diversion.

9.2 Fraudulent miracle claims for money (Schedule (2), (5))

Proof set: complainant testimony; payment proofs (bank/UPI; device dumps); advertisements/lectures; pattern evidence (other victims, cautioning against propensity misuse); medical notes if the “miracle” purported to cure disease and delayed proper care. Electronic evidence must be certified per s 63.

9.3 Sexual exploitation under occult pretext (Schedule (11))

Proof set: survivor testimony (with s 6 conduct-as-relevancy; prompt complaint), medical examination, digital traces (messages that frame “spiritual spouse” narratives), pattern proof of

grooming. Guard against consent misconceptions where coercion is spiritual/psychological.

9.4 Denial of medical treatment; dangerous “cures” (Schedule (9), (10))

Proof set: timeline showing refusal/substitution of evidence-based care; doctor testimony on standard of care, foreseeability of sepsis/airway compromise; counterfactual (reasonable prospect of better outcome). Where causation to death is not provable, “danger to life” or grievous hurt may still be.

10) Directions to the fact-finder (proposed, India-adapted)

1. **Element focus.** Decide whether the specific Schedule entry is proved by admissible evidence; ignore generalised “occult” characterisations. (2013 Act, s 3 and Schedule).
2. **Harm and causation.** Where the entry requires harm/danger/loss, identify the medical/financial facts and set out the causal path (BSA s 5). If intermediate facts are missing, require them before the ultimate claim (BSA s 141).
3. **Expert evidence.** Treat expert opinion under BSA s 39 as advisory; give weight only if the methodology and reasons are coherent and supported by facts (see *Jai Lal* line).
4. **Electronic proof.** Apply ss 61–63 and the Schedule certificate; where authenticity is contested, consider s 39(2) (Examiner of Electronic Evidence).
5. **Savings clause.** If conduct is arguably a legitimate ritual under s 12 (no injury or financial loss), record findings explicitly and avoid moral panic.

11) Enforcement snapshots: what recent cases teach

- **Suo motu video-led case (2025):** Police in Sambhajinagar registered a case after viral videos showed abusive “rituals” (beatings; forced shoe-in-mouth; compelled eating leaves). The public-record fact pattern underscores witness reluctance and the centrality of video provenance and continuity to meet trial standards.
- **Fraud/exorcism–cheating blend (2025):** Mumbai FIR combining the 2013 Act with cheating where “exorcism” targeted a woman in mental-health treatment—illustrating the need for psychiatric records and financial trail alongside Schedule-fit.

- **Bombay HC (2025):** Judicial articulation that the Act targets harmful practices and excludes legitimate worship and cultural expressions, aligning with s 12. This interpretive stance can be used as a jury-instruction analogue to cabin prejudice.

12) Defense and prosecution checklists

12.1 Prosecution

- Map the entry: identify the precise Schedule clause.
- Harm proof: MLCs, specialist reports, financial records; timelines matching video.
- Digital compliance: s 63 certificate; hashes; chain. Consider Examiner of Electronic Evidence for contested files (s 39(2)).
- Explain causation: stepwise intermediates (B, C, D) per s 141; avoid conclusory language.

12.2 Defence

- **Savings:** plead s 12 where applicable; show absence of injury/financial loss.
- **Break the chain:** attack intermediate facts; alternative medical causes; video editing or lack of continuity/authentic metadata.
- **Opinion scrutiny:** *Jai Lal* line—expose gaps in methodology/reasons; insist on data disclosure.

12.3 Court

- Write the Schedule into the charge.
- Use conditional relevance to discipline causation proof.
- Record Savings findings expressly to avoid moral-panic creep.
- State why an expert is accepted (or not) with BSA s 39–40 language.

13) Conclusion

Black-magic prosecutions often arise amid fear, grief, or outrage—precisely when evidentiary discipline matters most. The BSA gives courts a robust toolkit: opinion-evidence guardrails (s 39/40), digital-evidence pathways (ss 61–63 & Schedule), burden rules (ss 104–109), conditional relevance for causation (s 141), and presumptions that never eclipse elemental proof (s 119). The Maharashtra Act itself distinguishes harmful, exploitative practices from legitimate worship (s 12). Used together—and applied with the Supreme Court’s warnings about the limits of expert opinion—these instruments can deliver accountability without moral panic.

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