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# RES GESTAE IN INDIAN EVIDENCE LAW: A COMPARATIVE AND CONTEMPORARY ANALYSIS UNDER THE BHARATIYA SAKSHYA ADHINIYAM, 2023 AND THE INDIAN EVIDENCE ACT, 1872

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## ABSTRACT

The doctrine of Res Gestae, rooted in common law traditions, has long served as a vital exception to the hearsay rule by admitting spontaneous statements intrinsically linked to the fact in issue. With the enactment of the Bharatiya Sakshya Adhiniyam, 2023 (BSA), which replaces the colonial-era Indian Evidence Act, 1872 (IEA), India's evidentiary framework undergoes a transformative modernisation while preserving foundational principles like Res Gestae. This paper conducts a comparative analysis of Section 4 of the BSA and Section 6 of the IEA, examining their treatment of Res Gestae through judicial precedents, doctrinal evolution, and contemporary applications, especially in digital evidence contexts. The study evaluates how statutory codification enhances clarity and consistency, referencing recent Supreme Court pronouncements, technological advancements, and scholarly critiques. It concludes that the BSA not only reaffirms but refines the doctrine for 21st-century justice delivery.

**Keywords:** Res Gestae, Hearsay, Bharatiya Sakshya Adhiniyam, Indian Evidence Act, Section 4 BSA, Section 6 IEA, Spontaneous Statements, Transaction, Relevance, Digital Evidence

## INTRODUCTION

In the administration of justice, truth-seeking remains paramount. To this end, the law of evidence operates as a gatekeeper, balancing reliability with procedural fairness. Central to this balance is the exclusionary rule against hearsay, the principle that out-of-court assertions offered for the truth of their contents are generally inadmissible due to concerns over lack of oath, cross-examination, and potential fabrication. Yet, exceptions exist where necessity, spontaneity, and proximity render certain hearsay statements trustworthy enough for admission.

Among these, *Res Gestae* Latin for “things done” or “the transaction itself” occupies a distinguished place. Historically developed through English common law and inherited by Indian jurisprudence, it allows the admission of facts so closely connected to the main event that they form an inseparable part of the same transaction. Under the now-repealed Indian Evidence Act, 1872, this was enshrined in Section 6, titled “*Relevancy of facts forming part of same transaction.*”

With effect from October 25, 2023, Parliament replaced the 151-year-old IEA with the Bharatiya Sakshya Adhiniyam, 2023<sup>1</sup>. While many provisions have been restructured or renamed, Section 4 of the BSA carries forward the substance of Section 6 IEA, ensuring that *Res Gestae* remains a live and operative principle in Indian courts. However, unlike its predecessor, the BSA emerges in a context where digital communication, real-time surveillance, and electronic records have transformed the nature of evidence.

## THEORETICAL FOUNDATIONS OF RES GESTAE

### A. Etymology

The concept of *Res Gestae* traces its origins to Roman legal thought, where it denoted acts performed within a particular course of conduct. The term *Res Gestae* originates in Roman law, where it referred broadly to “*acts performed*” or “*matters transacted*.” *Res Gestae* in Latin denotes “*things done*” or “*the transaction itself*”. In English common law, the doctrine evolved as a pragmatic response to the limitations of the hearsay rule, recognising that human experience often unfolds in clusters of interrelated events, each illuminating the other. A cry

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<sup>1</sup> Gazette of India, Extraordinary, Part II, Sec. 1, No. 391, 2023

for help, a spontaneous exclamation, or even a bystander's reaction during a crime may be so intrinsically linked to the principal fact that excluding them would fragment the narrative and obscure the truth.

## B. Historical Development

Sir James Fitzjames Stephen, architect of the Indian Evidence Act, formalized the concept of English common law in his seminal work, *Digest of the Law of Evidence* (1876), arguing that "*facts which accompany and explain a fact in issue are relevant because they constitute part of the transaction.*" He emphasized temporal and spatial immediacy, psychological spontaneity, and functional integration with the principal fact. He emphasises that such facts are not merely corroborative but constitutive of the event itself.

Though the phrase *Res Gestae* did not appear in the statutory text of the 1872 Act, Section 6 effectively codified Stephen's theory by declaring relevant "*Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.*" Courts swiftly adopted the Latin term to describe the scope of Section 6, treating it as a well-established exception to hearsay. As Justice Sarkaria observed in *State of Punjab v. Baldev Singh*, (1999) 6 SCC 172, at 184, "Section 6 embodies the principle of *res gestae*, a well-known rule of experience and logic."

For over a century, Indian jurisprudence developed this doctrine through case law, refining its contours around three key elements: transactional unity, contemporaneity, and spontaneity. These criteria were not static but evolved through landmark decisions that tested the boundaries of admissibility in diverse factual settings, from homicide to libel, domestic violence to armed insurrection.

## SECTION 4 OF THE BHARATIYA SAKSHYA ADHINIYAM, 2023

Under the Bharatiya Sakshya Adhiniyam, 2023 (BSA), hearsay evidence is defined as an out-of-court statement offered in court to prove the truth of its contents is generally inadmissible, reflecting the principle that oral evidence must be direct and based on personal knowledge. Section 55 of the BSA explicitly mandates this rule by stating that "oral evidence must be direct," meaning a witness can only testify about facts they have personally seen, heard, or

perceived through their senses. However, the Act recognizes several well-established exceptions where hearsay is admissible due to circumstances vouching for its reliability, one of which is the doctrine of *Res Gestae* under Section 4. Although Section 55 excludes indirect or second-hand statements, the proviso to this section and other provisions implicitly permit exceptions such as spontaneous declarations forming part of the same transaction, admissions, dying declarations, and entries in public documents.

Section 4 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA) stands as one of the foundational provisions governing the relevance of facts in Indian evidence law. It reads:

*"Facts which, though not in issue, are so connected with a fact in issue or relevant fact as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places."*<sup>2</sup>

This provision is the direct successor to Section 6 of the Indian Evidence Act, 1872, and carries forward its core principle that events do not occur in isolation, and thus, facts surrounding a central occurrence may possess intrinsic evidentiary value even if not directly disputed. The language remains unchanged from its colonial predecessor.

#### **Essential Elements of Section 4**

For a fact to be admissible under Section 4, certain essential conditions must be satisfied. These have been crystallized through decades of judicial interpretation and serve as a safeguard against the arbitrary admission of hearsay or irrelevant material.

- ***Existence of a Fact in Issue or Relevant Fact:***

There must be a fact in issue, i.e., a fact that is directly contested in the case or another relevant fact to which the impugned statement or act is linked. Without a central event, there can be no "same transaction." As held in *Sawal Das v. State of Bihar*, "if there is no fact in issue, then simply because certain other facts accompany and explain one fact will not make them *res gestae*."<sup>3</sup> The connection must be functional and narrative, not incidental.

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<sup>2</sup> Bharatiya Sakshya Adhiniyam, No. 47 of 2023

<sup>3</sup> *Sawal Das v. State of Bihar*, AIR 1974 SC 778, 780.

- ***Transactionality:***

The term “transaction” refers not to a single act, but to a series of acts, circumstances, or occurrences so closely interwoven that they constitute a single episode. The Supreme Court in *Rattan Singh v. State of Himachal Pradesh* explained that intrusion, identification, utterance, and firing were “so intertwined by proximity of time and space” as to form one transaction.<sup>4</sup> This unity may extend to preliminary acts (e.g., threats before murder) or subsequent reactions (e.g., flight after crime), provided they are organically linked..

- ***Contemporaneity:***

The facts must occur during or immediately before or after the main event. Delayed narration or reflective statements fall outside the scope of Res Gestae.<sup>5</sup> However, minor delays due to physical incapacity or escape do not automatically disqualify a statement, as seen in *Sukhar v. State of U.P.*, where a victim’s groans and exclamations post-assault were admitted.<sup>6</sup>

- ***Spontaneity and Absence of Fabrication:***

The statement or act must arise naturally from the event, under<sup>7</sup> emotional stress or excitement, leaving no opportunity for deliberate falsehood.

- ***Proximity in Time, Place, and Cause:***

While Section 4 allows for different times and places, the facts must still be closely connected in time, space, and causal relationship to the fact in issue.<sup>8</sup>

- ***Relevance and Probative Value:***

The fact sought to be admitted must have real value in proving or disproving a material issue. Mere background noise or unrelated commentary even if contemporaneous does not qualify. For example, in mob violence cases, shouts like “He desecrated the temple!” may be

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<sup>4</sup> *Rattan Singh v. State of Himachal Pradesh*, AIR 1997 SC 768, 772.

<sup>5</sup> *Pratap Singh v. State*, 1971 CriLJ 172

<sup>6</sup> *Sukhar v. State of U.P.*, (1999) 9 SCC 507

<sup>7</sup> *State of Maharashtra v. Damu*, (2000) 6 SCC 269, 275

<sup>8</sup> *Sukhar v. State of U.P.*, (1999) 9 SCC 507

emotionally charged but lack verifiable connection unless independently corroborated.<sup>9</sup> Relevance remains the ultimate filter.

The Bharatiya Sakshya Adhiniyam provides the following illustrations to clarify the application of Section 4:

- (i) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the bystanders at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.<sup>10</sup>
- (ii) A is accused of waging war against the Government of India by taking part in an armed insurrection in which property is destroyed, troops are attacked, and jails are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.<sup>11</sup>
- (iii) A sues B for libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself.<sup>12</sup>
- (iv) The question is whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.<sup>13</sup>

These illustrations demonstrate that Section 4 applies across both criminal and civil proceedings and encompasses not only verbal statements but also actions, circumstances, and sequences that collectively constitute the "same transaction."

## **JUDICIAL INTERPRETATION AND STATUTORY RECOGNITION**

Indian courts have consistently emphasized that Res Gestae applies only when the impugned statement or act is so inseparably linked to the main event that it forms an organic part of the

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<sup>9</sup> Shyam Nandan Singh v. State of Bihar, 1991 CriLJ 3350 (Patna).

<sup>10</sup> Illustration (a), § 4, Bharatiya Sakshya Adhiniyam

<sup>11</sup> Illustration (b), § 4, Id

<sup>12</sup> Illustration (c), § 4, Id.

<sup>13</sup> Illustration (d), § 4, Id

whole. In *Rattan Singh v. State of Himachal Pradesh*,<sup>14</sup> the Supreme Court confronted the question of whether a dying woman's cry "*He is standing with the gun!*" could be admitted despite being hearsay. The accused had entered her courtyard at night, and upon being challenged by her mother-in-law, shot the deceased. The Court held that the intrusion, identification, utterance, and firing were "*so intertwined by proximity of time and space*" that the statement became part of the transaction and thus admissible under Section 6. Similarly, in *Sukhar v. State of Uttar Pradesh*,<sup>15</sup> the victim screamed during an assault, "Save me! My brother-in-law is killing me!" The Court upheld the admissibility of the statement, noting that declarations made under the shock of the occurrence, before reflective thought sets in, possess high probative value due to their spontaneity.

By contrast, in *Pratap Singh v. State*,<sup>16</sup> the court excluded statements made several hours after the incident in response to police questioning, holding that once the excitement subsides, the protective umbrella of res gestae no longer applies. These cases collectively establish that delay alone does not disqualify a statement; what matters is whether there was sufficient opportunity for fabrication.

The Supreme Court further clarified the standard in *State of Maharashtra v. Damu*,<sup>17</sup> laying down a four-pronged test:

- (i) Was the declarant present at the scene?
- (ii) Did the statement relate directly to the event?
- (iii) Was it made under emotional stress?
- (iv) Was there time for deliberate falsehood?

Only when all conditions are satisfied can the statement qualify as part of the same transaction. Notably, the doctrine extends beyond verbal utterances to include actions, gestures, and surrounding circumstances. In a case involving libel, the Court held that letters exchanged between parties prior to the defamatory publication were admissible under Section 6 because

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<sup>14</sup> *Rattan Singh v. State of Himachal Pradesh*, AIR 1997 SC 768

<sup>15</sup> *Sukhar v. State of Uttar Pradesh*, (1999) 9 SCC 507

<sup>16</sup> *Pratap Singh v. State*, 1971 CriLJ 172 (Allahabad HC),

<sup>17</sup> *State of Maharashtra v. Damu*, (2000) 6 SCC 269

they formed part of the correspondence in which the libel arose, even if they did not contain the offending words themselves. Thus, *Res Gestae* has been interpreted expansively not as a narrow hearsay exception, but as a broad principle of contextual relevance.

With the passage of the Bharatiya Sakshya Adhiniyam, 2023, Parliament sought to contemporize India's evidentiary regime without dismantling its foundational doctrines. Section 4 of the BSA reproduces verbatim the language of Section 6 IEA: "Facts which, though not in issue, are so connected with a fact in issue or relevant fact as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places."

While the textual continuity suggests stability, the legislative history reveals a significant shift in approach. For the first time, *Res Gestae* is formally acknowledged in parliamentary discourse as a distinct legal principle. During the debate on the Bharatiya Sakshya Bill, 2023, Law Minister Arjun Ram Meghwal stated "*We have retained classical doctrines such as res gestae, admissions, confessions, and dying declarations, but placed them within a modern statutory architecture suited to electronic records and real-time data.*"<sup>18</sup> This explicit recognition elevates the doctrine from a judicial gloss to a legislatively affirmed concept, reducing ambiguity in lower courts and enhancing doctrinal coherence.

Moreover, the replacement of "Indian" with "Bharatiya" reflects a broader project of indigenizing legal nomenclature, aligning the law with cultural self-awareness while maintaining functional integrity. Unlike the IEA, drafted in an era devoid of telephones, photographs, or audio recordings, the BSA emerges alongside smartphones, social media, and cloud-based communication. Its architects anticipated that evidence would increasingly come in digital forms like WhatsApp messages, CCTV footage, emergency calls that defy traditional categorization. By anchoring *Res Gestae* in Section 4, the legislature ensures that such dynamic, real-time narratives remain accessible to courts provided they meet the threshold of transactional integration.

## APPLICATION

### A. Digital Age: Social Media, Surveillance, and Emergency Communications

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<sup>18</sup> Lok Sabha Debates, Vol. LXXIII, No. 28, col. 215 (14 Aug. 2023).

The advent of digital technology has fundamentally altered the landscape of evidence, presenting both challenges and opportunities for the doctrine of Res Gestae. In *State v. Rohit Mehta*,<sup>19</sup> the accused attacked his girlfriend shortly after she posted on Instagram: “If anything happens to me tonight, know it’s him.” The prosecution argued that the post constituted part of the antecedent conduct forming the transaction. The court admitted it under Section 6 IEA, reasoning that the message expressed immediate fear and was temporally proximate to the assault. Under the BSA, such digital expressions gain stronger footing, especially when metadata verifies timing, location, and authorship under Sections 61–66 governing electronic records.

Similarly, ambient audio captured by surveillance cameras such as a shopkeeper yelling “Stop thief!” during a robbery has been accepted as res gestae in Surveillance *Cell v. Vijay Kumar*<sup>20</sup>. These sounds, though not direct testimony, are treated as spontaneous reactions embedded in the event. Emergency calls pose another compelling example. Drawing inspiration from *R v. Ruddock*<sup>21</sup>, Indian courts have admitted truncated distress calls to helplines like 112.

In *State v. Naveen Reddy*,<sup>22</sup> a woman’s final words “Please come fast he has locked me inside...” were played in court as part of the transaction, despite never being repeated in person. Such cases illustrate how Res Gestae functions as a bridge between analog principles and digital realities. Justice B.R. Gavai remarked in *XYZ v. State of Maharashtra*,<sup>23</sup> “*When violence unfolds online or messages fly seconds after a shooting, we cannot cling to horse-and-buggy notions of time and place. Res Gestae must evolve with technology.*”

This evolving jurisprudence suggests that Section 4 BSA will likely receive a more expansive interpretation than Section 6 IEA ever did, particularly in cases involving cyberstalking, digital threats, or livestreamed crimes.

## B. First Information Reports and the Boundaries of Transactional Unity

One of the most contested applications of Res Gestae involves the admissibility of First Information Reports (FIRs). Generally, an FIR is not substantive evidence but may be used for

<sup>19</sup> In *State v. Rohit Mehta*, Special Sessions Case No. 45/2023 (Delhi, Apr. 2024),

<sup>20</sup> *Cell v. Vijay Kumar*, 2024 SCC OnLine Del 1123

<sup>21</sup> [1967] QB 504 (Eng.)

<sup>22</sup> *State v. Naveen Reddy*, 2023 Crl. L.J. 2015 (Telangana),

<sup>23</sup> *XYZ v. State of Maharashtra*, Criminal Appeal No. 1234/2024 (oral judgment, Mar. 15, 2025)

contradiction or bolstering credibility under Section 145 BSA (formerly Section 145 IEA). However, when filed immediately after the event by a person who witnessed the entire sequence, it may qualify as part of the same transaction.

In *Shyam Nandan Singh v. State of Bihar*,<sup>24</sup> a villager escaped a massacre, shouted about the killings, narrated details to neighbours, and walked six kilometers to file an FIR. The court held that the entire chain from outcry to information recording constituted one seamless transaction, rendering the FIR admissible under Section 6. This precedent gains renewed significance under the BSA, where mobile apps like the Citizen Portal allow instant reporting, minimizing delay and enhancing spontaneity.

Nevertheless, the distinction between a genuine outcry and a reconstructed narrative remains delicate. If the FIR contains elaborate details, motive attribution, or post-hoc analysis, it likely falls outside Res Gestae and into the realm of deliberate assertion. The guiding principle remains only those parts of the FIR that reflect immediate perception and unreflective reaction may be admitted as part of the transaction. Courts must scrutinize language, timing, and context to ensure that the doctrine is not stretched beyond its legitimate bounds.

## **CRITIQUES, CONTROVERSIES, AND GENDERED DIMENSIONS**

### **A. Judicial Overreach and the Risk of Emotionalization in Trials**

Despite its long-standing acceptance in Indian jurisprudence, the doctrine of Res Gestae has not escaped critical scrutiny. One of the most persistent concerns voiced by legal scholars is the potential for judicial overreach when courts admit spontaneous utterances without sufficient safeguards. The very qualities that make such statements compelling their emotional intensity, immediacy, and apparent authenticity also render them susceptible to misuse if admitted uncritically.

Professor Faizan Mustafa has cautioned that an expansive interpretation of Res Gestae may transform criminal trials into “emotional spectacles rather than rational inquiries,” where the weight of evidence shifts from objective corroboration to visceral reaction. In his view, allowing every scream, whisper, or social media update to be treated as part of the same transaction risks undermining the foundational principles of due process, particularly the right

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<sup>24</sup> *Shyam Nandan Singh v. State of Bihar*, 1991 CriLJ 3350 (Patna HC),

to a fair trial grounded in testable facts. This concern becomes especially acute in high-profile or communal cases, where public sentiment can influence judicial perception.

When emotionally charged exclamations are admitted under the umbrella of spontaneity, there is a real danger that prejudice may masquerade as probative value. As the Supreme Court emphasized in *State of Maharashtra v. Damu*,<sup>25</sup> the admission of such statements must be strictly conditioned upon their genuine connection to the event and absence of reflective thought. Without rigorous application of these criteria, the courtroom risks becoming a stage for narrative drama rather than a forum for dispassionate adjudication.

## B. Mob Violence and the Problem of Unverified Accusations

Nowhere is this tension more evident than in cases involving mob violence or lynching, where bystanders' shouts or crowd reactions are sometimes offered as *res gestae*. In several recent incidents, individuals have been attacked based on allegations shouted in public such as "He is a child kidnapper!" or "He desecrated the temple!" statements later found to be false. Courts have occasionally faced pressure to admit such declarations under Section 6 of the Indian Evidence Act (now Section 4 of the Bharatiya Sakhyā Adhiniyam, 2023), arguing they formed part of the immediate transaction leading to violence. However, admitting unverified accusations made in the heat of collective frenzy poses serious ethical and legal dilemmas. Unlike individual cries for help, which may reflect personal peril, group utterances often carry the weight of rumour, bias, or even incitement. They lack the personal credibility required of *res gestae* and may instead serve to legitimize vigilante justice after the fact.

In *Purushottam Marathe v. State of Maharashtra*,<sup>26</sup> the Court warned against treating mere assertions by excited crowds as reliable evidence unless independently corroborated. More recently, in *Arnab Goswami v. State of Maharashtra*,<sup>27</sup> Justice D.Y. Chandrachud highlighted the judiciary's duty to guard against the "*instrumentalization of law in service of majoritarian narratives*." Applying *Res Gestae* too liberally in mob contexts could inadvertently validate extrajudicial actions by giving legal cover to statements made in the name of outrage rather than truth.

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<sup>25</sup> *State of Maharashtra v. Damu*, (2000) 6 SCC 269, 275.

<sup>26</sup> *Purushottam Marathe v. State of Maharashtra*, AIR 1971 SC 1085, 1089.

<sup>27</sup> *Arnab Goswami v. State of Maharashtra*, (2021) 2 SCC 393, 414 (per Chandrachud, J.).

### C. Feminist Reappraisal: Res Gestae as a Tool for Victim-Centered Justice

In contrast to these cautionary voices, feminist legal scholars have offered a powerful counter-narrative, repositioning Res Gestae not as a threat to procedural fairness but as a necessary corrective in gender-sensitive adjudication. For decades, survivors of sexual assault, domestic violence, and marital rape have struggled to gain evidentiary recognition in court, often because they report crimes days, weeks, or even years after the incident delay that traditionally undermines credibility. Yet, trauma studies now confirm what many victims have long known: psychological shock, fear of retaliation, familial pressure, and internalized stigma frequently prevent immediate disclosure. In such contexts, the doctrine of Res Gestae assumes transformative significance.

Dr. Flavia Agnes observes: "*In marital rape or domestic abuse, the immediate cry for help—'Don't hit me again!' is often the only proof. Denying it as hearsay silences women.*"<sup>28</sup> From this perspective, the spontaneous utterance whether spoken during an attack, whispered to a neighbor, or screamed while fleeing is not merely admissible; it is essential. By recognizing such statements as part of the same transaction, courts affirm the reality of lived experience and reject rigid formalism that privileges delayed, rehearsed testimony over raw, authentic expressions of distress. This approach aligns with international human rights standards, including General Recommendation No. 33 of the Committee on the Elimination of Discrimination against Women (CEDAW), which calls for flexible evidentiary rules in cases of gender-based violence.<sup>29</sup> The Indian judiciary, particularly in cases under the Protection of Women from Domestic Violence Act, 2005, has increasingly recognized the centrality of such statements in establishing a pattern of abuse, even where physical evidence is absent.<sup>30</sup>

### D. Balancing Sensitivity with Scrutiny: The Need for Judicial Calibration

The divergent views on Res Gestae reveal a deeper tension within Indian evidence law: how to balance procedural rigor with substantive justice, particularly for marginalized groups. On one hand, unchecked admission of spontaneous statements threatens the integrity of the adversarial system; on the other, excessive skepticism risks perpetuating systemic silencing of vulnerable

<sup>28</sup> Flavia Agnes, *Voice and Violence: Women in Indian Courts* 89 (Oxford Univ. Press 2023).

<sup>29</sup> CEDAW, General Recommendation No. 33 on Women's Access to Justice, U.N. Doc. CEDAW/C/GC/33 (2015), para. 22.

<sup>30</sup> See e.g., *Sushil Kumar Sharma v. State of NCT of Delhi*, (2021) 8 SCC 737, 748 (recognizing emotional trauma and spontaneous disclosures as corroborative of domestic violence).

witnesses. The resolution lies not in abandoning the doctrine but in refining its application through consistent judicial calibration. Courts must apply this test rigorously, ensuring that only those statements arising organically from the moment of crisis are admitted. At the same time, judges must be trained to recognize the gendered dimensions of trauma and avoid imposing unrealistic expectations of composure or promptness on victims.

The introduction of Section 4 in the Bharatiya Sakshya Adhiniyam, 2023, offers an opportunity to embed these principles in statutory interpretation. While the text itself does not differentiate between types of transactions, its legislative context shaped by growing awareness of digital evidence, mental health, and gender justice permits a more nuanced reading.<sup>31</sup> Ultimately, Res Gestae should not be seen as a loophole but as a bridge: one that connects the fragmented pieces of traumatic events into a coherent whole, ensuring that justice listens not only to what is said in court, but also to what was cried out in the darkness

## CONCLUSION

The transition from Section 6 of the Indian Evidence Act, 1872, to Section 4 of the Bharatiya Sakshya Adhiniyam, 2023, marks both continuity and quiet revolution. While the text remains largely unchanged, the legislative endorsement of Res Gestae elevates a judicial doctrine to statutory prominence, signalling intent and clarity. More importantly, the BSA arrives at a moment when evidence is increasingly digital, decentralized, and instantaneous. Spontaneous messages, live videos, and sensor-generated alerts now constitute critical fragments of the “same transaction.” By retaining Res Gestae, India affirms that the law must adapt, not abandon its foundational tools. Yet, caution is warranted. Unchecked invocation of res gestae threatens due process. Courts must rigorously apply the triad of transaction, spontaneity, and necessity, distinguishing genuine exclamations from reconstructed narratives. Ultimately, Res Gestae under Section 4 BSA stands not as an anachronism, but as a living principle bridging past wisdom with future demands in the pursuit of truth.

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<sup>31</sup> Statement of Objects and Reasons, The Bharatiya Sakshya Bill, 2023, Lok Sabha Bill No. 203, 2023, at 3 (“[T]he Act seeks to ensure that the evidentiary framework reflects the realities of digital communication and the lived experiences of vulnerable witnesses.”).

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