

Law of Evidence (BSA)

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- I have a daughter who is 27 years old and working as a software engineer in HYD and earning a lakh per month. I felt that now I have to see her married and asked her whether she likes anyone or can I search for a suitable boy and what are her requirements. She says that she does not have anyone in mind and I can search but the boy should be taller than her, handsome, stable job, earns more than her and belong to a good family. I take 10 months for finally choosing 5 matches according to her requirements and place before her the options. She selected one and they talked to each other, find acceptable to each other and I got them married. (Decision= KNOWL/ EXP/WISDOM)

Discretion

- Jessica Lal
- Bhavri Devi
- Priyadarshini Mattoo

What is a Judicial Proceeding?

- Evidence to be taken on oath.
- Punish for Contempt of Court
- S.384 = 1,000 Rs fine

Law of Evidence tells us about

- What are facts-in-issue.
- What facts are relevant.
- What facts are admissible.
- What kind of evidence may be given of a fact which is to be proved.
- Who is to produce such evidence.
- How it is to be given.

Law of Evidence= An Intro

- What is the enactment that touches almost every other law?
- What is the difference between evidence and proof?
- Suppose A denies the ownership of B over a piece of land. B produces his title-deed for the inspection of the court and two witnesses having knowledge of B gaining ownership over the piece of land. The title-deed and the statements of the witnesses are evidence.
- Evidence is adduced or given or produced to prove
- Evidence means all the legal means, which tend to prove or disprove any fact, the truth of which is submitted for judicial determination

Evidence+Proof

- Evidence includes arguments because arguments tend to prove or disprove a fact [True/False].
- As a matter of rule, evidence includes opinions of witnesses [True/False].
- Proof means the establishment of facts to the satisfaction of court (True/False).
- Proof signifies the belief of the Court in the existence of a fact (True/False).
- The statements "Do you have proof?"/"I have proof" are correct (True/False)

Applicability of the BSA

- The BSA is applicable to proceedings before courts martial convened under the Army Act, Air Force Act and the Naval Discipline Act (True/False).
- The BSA does not strictly apply to Proceedings before an Administrative Tribunal (True/False).
- The BSA applies to Proceedings before Arbitrators (True/False).
- The BSA applies to Proceedings before Lok Adalat (True/False).
- The BSA applies to Departmental Disciplinary Proceedings (True/False).

Oral Evidence

- Investigating PO
- A witness who is dumb gives his answers by writing on a piece of paper for the questions asked during cross-examination. Does his evidence constitute documentary evidence?
- Oral evidence does not always mean words coming from the lips of the witnesses (True/False).
- Can all facts be proved by oral evidence?
- All facts can be proved by oral evidence except the contents of a document (True/False).
- A particular number of witnesses are required for proof of a fact (T/F)
- Evidence has to be weighed but not counted/ so quality not quantity(T/F)

Documentary Evidence

- “Document” means any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, and includes electronic and digital records intended to be used, or which may be used, as evidence of that matter.
- Tattoo mark on a human body is a document (True/False).
- Documentary evidence is sub classified into primary and secondary evidence (True/False).

Direct & Circumstantial

- When the evidence is given of the very fact in issue, i.e. of the matter in controversy, it is called direct evidence (True/False).
- Circumstantial evidence means the evidence of circumstances (True/False).

Original (Direct) & Hearsay

- Original Evidence relates to the source of knowledge of the witness. If the knowledge is acquired using his or her own senses (by sight/smell touch/taste/hearing) the evidence is original evidence (True/False).
- However, if the knowledge is acquired through some other person, evidence based on such knowledge is called hearsay or derivative or second-hand evidence (True/False).
- The rule that “hearsay evidence is not admissible” does not apply with respect to admission or confession or dying declaration (True/False).

- **Caselet 1: Ravi and Pramod, who are cousins, find themselves in a tragic incident when Ravi, in a secluded area, shoots Pramod, seizes Pramod's briefcase, and flees the scene. Shortly after, Pankaj, driving by, notices Pramod lying in blood-stained clothes. He successfully revives Pramod, who, before passing away, asks to be taken to a hospital and tells Pankaj that his cousin, Ravi, shot him and stole his briefcase containing cash. Unfortunately, before Pankaj can transport Pramod to safety, he succumbs to his injuries. The question arises regarding the admissibility of Pankaj's evidence. Is Pankaj's Evidence admissible as it is hearsay since Pankaj has not witnessed Ravi shooting Pramod?**

- In the above example, Ravi confesses to his friend Sucharitha about his conduct towards Pramod and also tells that he is responsible for the death of Pramod. Is Sucharitha's evidence about the acknowledgment made by Ravi to Sucharitha, admissible as evidence? If so, does that evidence constitute ORIGINAL [DIRECT] EVIDENCE OR HEARSAY EVIDENCE?
- In the example discussed, Pankaj takes Pramod to an hospital and Pramod is safe even after 3 months after the incident. Does the statement made by Pankaj that "Ravi, my cousin tried to kill me and has also taken away my brief case containing cash" constitute Dying Declaration?

Substantive & Corroborative Evidence

- An item (one) of substantive evidence can form the basis of the decision(T/F)
- Even 10 items of corroborative evidence cannot form the basis of a decision(T/F)

Corroborative Evidence

Substantive: one item is enough for a judgment

Corroborative: Even 10 items not enough

1. FIR
2. (Dying Declaration) Statement by a person who survived
3. Statements recorded by Police in the course of investigation
4. Test Identification Parade Evidence
5. Sniffer dog's evidence
6. Admissions in criminal cases
7. Inquest Report by PO/JM/EM/
8. Expert's opinion
9. Confession of a Co-accused

MOTIVE

- Is motive a determining factor in fixing liability under civil law or criminal law?
- Evidence pertaining to motive can be adduced (True/False).

Relevancy & Admissibility

Logical Relevancy & Legal Relevancy

- Relevancy means **connection between one fact and another.**
- There are two kinds of relevancy; **(1) Logical Relevancy, and (2) Legal Relevancy.**
- **Relevancy** (literally) **is identified with logical relevancy**
- **Admissibility** (literally) **is identified with legal relevancy**

Confession to a Police officer [S.23(1)]

- A confession made to a Police officer is *logically relevant* but *not legally relevant (not admissible)*

Confession made in Police Custody [S.23(2)]

- Confession made to anyone in police custody is inadmissible.
- However, a confession made in the immediate presence of a magistrate is not affected by Section 23.
- If it is made to a police officer, it would come within section 23 (1) and will be **totally inadmissible even though it is made in the presence of a magistrate** and section 23 (2) would not apply.

Privileged communications (Competency & Compellability)

- A communication made by an husband to his wife or a communication made by a client to his lawyer **are logically relevant** but are **not legally relevant (not admissible)**
- Can the spouse (wife/husband) of the party be a competent witness?
- Can a wife or husband be compelled to disclose communication made by the other spouse?
- What in case communication made by the spouse (wife or husband) revealed voluntarily—can it be taken on record by the Court?

Presumption as to legitimacy

- W married HB on 2-3-2020. HB is a businessman, and his business does not allow him to leave their place, Hyderabad and his wife has been with him all the time except for a few days occasionally. On 6-6-2023, W gives birth to a child, who does not resemble HB, but resembles his neighbor. **HB does not want to be treated as a father of the child and wishes to challenge paternity** of the child by adducing evidence that he is not the true father. **Is HB permitted to adduce evidence that he is not the true father?**

Relevancy of character

- The word 'character' includes both reputation and disposition. Reputation means the general credit of the person among the public but disposition means the inherent qualities of a person.
- **In criminal cases, previous good character relevant (Section 47)**
- **Previous bad character not relevant, except in reply (S.49)**

Relevancy of character in civil proceedings **irrelevant**(S 46)

- In civil cases, the fact that the character of any person concerned is such as to render probable or improbable any character imputed to him, is **irrelevant**.
- **Character evidence admissible if character itself is in issue: In a suit for libel, if the libel consisted in attributing bad qualities**, to the plaintiff and the defendant justifies the existence of these qualities, this would be a fact in issue and evidence of character may be led. **The character of a female chastity has been received in evidence in action for breach of promise for marriage**. (Divorce-cruelty)

Character as a Fact in Issue:

- In certain legal scenarios, particularly under the Bharatiya Sakshya Adhiniyam (BSA), an individual's character can transcend its usual evidentiary limitations and become a central fact in issue, thereby gaining direct relevance to the case. This principle is most prominently observed in defamation cases, where the plaintiff's character often forms a crucial element of the dispute.

Relevancy & Admissibility

- **Relevancy** (literally) **is identified with logical relevancy** because by using logic, it is said that a fact is connected to another fact.
- **Admissibility** (literally) **is identified with legal relevancy** because it is law which decides whether a fact is admissible as evidence in courts or not.
- **This difference prevails in other systems but not in our system.**
- **According to our Indian Evidence Act, what is admissible is relevant and what is relevant is admissible.**

ADMISSIONS & CONFESSIONS

Underlying Principles

1. Confession or Admission *reduces the burden of proof of other party.*
2. *None makes a false statement against his own interest.*
3. An Admission or Confession made is a good piece of *evidence against the maker.*

Kinds : judicial or extra-judicial

- A confession may be judicial or extra-judicial. Judicial Confessions are those made **before a Judicial Magistrate or in court** and are presumed to be voluntary. Extra-Judicial confessions are those made to any other person other than Judges and Magistrates as such. **Judicial Confessions enjoy high evidentiary value** but extra-Judicial confessions do not enjoy high evidentiary value.

Confessions caused by inducement, threat , coercion or promise

- Section 22 provides that a confession is not admissible if it is **obtained by inducement, threat, coercion or promise.** Hence, confession must **be free and voluntary in order to be admissible.**
- According to Section 22, a confession caused by inducement, threat, coercion or promise **is inadmissible**, if such inducement, threat or promise proceeds from a person in authority, and causes a reasonable belief in the mind of the accused that by making it, he would **gain an advantage or avoid an evil** of a temporal nature.

Conditions to be satisfied to render a confession invalid

U/S 22

1. The confession must appear to the Court to have been caused by any **inducement, threat or promise**.
2. Any such inducement, threat or promise must have **reference to the charge** against the accused person.
3. Any such inducement, threat or promise must **proceed from a person in authority**.
4. Any such inducement, threat or promise must be sufficient in the opinion of the Court to cause a reasonable belief in the mind of the accused that by making it, he would **gain an advantage or avoid an evil of a temporal nature**.

Confession made by the accused in police custody

- Section 23(2) says that a confession given to any person in a police custody is inadmissible. However, there is an **exception**, that is, a **confession made in the immediate presence of a Magistrate is admissible** even though made in police custody.
- Police custody does not mean that the accused must have been in police cell or physical custody. The accused is presumed to be in police custody if he is under the **control and influence of police in some manner**.

That part which leads to the discovery is admissible

- **EXAMPLE:** An accused in police custody stated to the police officer that **“ I stabbed Kamal with a knife. I hid the knife in the tamarind box”**
- The first sentence of the statement i.e. **“ I stabbed Kamal with a knife”**. **Must be omitted and cannot be proved**. The sentence **“I hid the knife in the tamarind box” will be admissible if on the basis of the information the knife is recovered.**

Conditions to be satisfied for the application of Proviso to Section 23

1. There must be **information**.
2. There must be **discovery of a fact**.
3. The fact must have been **discovered in consequence of the information**.
4. The information must have been **given while in police custody**.
5. **So much of such information** which distinctly relates to the **fact thereby discovered** is relevant.

Admission

- Admission literally means a **voluntarily acknowledgement as to the truth of a particular fact.** Section 15 defines the expression admission as a statement suggesting an inference as to any fact in issue or relevant fact.
- In Civil cases **all sorts of acknowledgements are admissions.** However, in criminal cases, total acknowledgement of guilt by the accused constitutes a confession and **other statements by accused which do not amount to accepting the guilt** are regarded as admissions.

Kinds :Formal -Informal

- **Formal admissions** also known as **judicial admissions** are made **deliberately** with a view to dispense with the other proof.
- **Informal Admissions** are usually made in **ignorance of the possibility** of their being used in the future litigation.

Characteristics of an Admission

1. An Admission is a **'statement' which suggests any 'inference'** as to any fact in issue or relevant fact.
2. An **admission must relate to subject matter in issue.**
3. An Admission must be made **by persons and in the circumstances** mentioned under sections 16 to 18.
4. An Admission may be **oral or documentary** or contained in electronic form.

Persons whose admissions are relevant

- According to the Section 16, the following persons' admissions are relevant:

- (a) **Parties** to the suit or proceedings.
- (b) **Agents** of the parties.
- (c) Parties to the suits **in representative character.**
- (d) Persons having any **property or pecuniary interest** in the subject matter.
- (e) **Previous owners.**

Self-Serving Admissions(Sec.19)

1. Statements of persons who cannot be called as witnesses.
{Sec.19 (1)}.

E.g. A statement of a deceased person

2. Statements regarding the state of mind or body. {Sec. 19 (2)}.

E.g. A is accused of having counterfeit notes knowingly. A offers to prove that he asked a skillful person to examine the notes who told that they are genuine.

E.g.A is accused of receiving stolen goods knowing them to be stolen. A offers to prove that he refused to sell them below their value.

Confession of a co-accused

- The court takes into consideration the confession of a co-accused if the following conditions are satisfied:-
 1. There must be **joint trail of two or more persons.**
 2. The joint trail must be for the **same offence.**
 3. The **statement must amount to confession.**
 4. The confession **must affect himself and any other accused** person or persons.

Kashmira Singh v. State of M.P. (1952):

- Kashmira, a former Assistant Food Procurement Inspector, was implicated in the murder of a Food Officer's child following his termination from service. The prosecution alleged that Kashmira, motivated by vengeance, orchestrated the kidnapping and murder of the officer's five-year-old son with the help of his nephew Pritipal and friend Gurbachan. All three were charged, but the case pivoted on Gurbachan's confession, which implicated both himself and Kashmira. Based primarily on this confession, both men were convicted and sentenced to death. While Gurbachan did not appeal and was subsequently executed, Kashmira's appeal reached the Supreme Court. In a landmark decision, the Court acquitted Kashmira, highlighting a crucial distinction in evidence law: while Gurbachan's confession was substantive evidence against himself, it constituted only corroborative evidence against Kashmira as a co-accused. The Court emphasized that a conviction cannot be sustained solely on an uncorroborated confession of a co-accused, underscoring the need for additional supporting evidence.

	Admission	Confession
1	An admission is a general term which suggests an inference as to any fact in issue or a relevant fact.	A confession is a statement made by an accused person that he committed an offence.
2	Admissions are generally used in civil proceedings. Yet they may also be used in criminal proceedings.	Confession finds place in criminal proceedings only.
3	An admission may be self-harming or self-serving.	A confession always goes against the person making it, so confession is always self-harming.
4	Admission need not necessarily be made by a party to a case. It can be made by any person mentioned u/Ss 16 to 18.	A confession can be only by the accused.
5	An admission is not a conclusive proof of the matter admitted but may operate as an estoppel.	A confession is conclusive in itself of the matter confessed.
6	An admission is admissible even if it is not made voluntarily, in certain cases.	A confession must always be voluntary.
7	An admission of one of the several co-plaintiffs or co-defendants is no evidence against others.	A confession of co-accused can be taken into consideration against other co-accused.

DYING DECLARATIONS

- What is the significance of dying declaration?
- The presumption is that a dying man does not lie because he knows that he will not be there to reap the benefits of his lie(True/ False).
- Why an IAS officer trainee needs to know about dying declaration?
- If we compare civil cases and criminal cases, evidence is more a problem in criminal cases because generally criminal cases do not have the advantage of documents or documentary evidence but confined to oral evidence (True/ False).
- Apart from the limitation mentioned above, the evidence required in criminal cases is onerous because prosecution has to prove the guilt beyond reasonable doubt (True/ False).
- Can a dying declaration be recorded by a police officer?
- Can any tom, dick or harry record dying declarations?

DYING DECLARATIONS

- If any tom, dick or harry can do it ,why a magistrate?
- However, a dying declaration recorded by a Magistrate, whether executive or judicial, enjoys very high evidentiary value like judicial confession (True/ False).
- We have very few items of substantive evidence and dying declaration is an item of substantive evidence (True/ False).
- For better evidentiary value, though both Executive Magistrates as well as judicial Magistrates can record dying declarations, as a matter of practice dying declarations are not recorded by Judicial Magistrates (True/ False).
- The reason for admitting dying declaration is well reflected by a quotation of **Mathew Arnold** "*Truth sits on the lips of a dying man*". However, does this hold good for all dying declarations under the Indian Evidence Act?
- Moreover, Executive Magistrates record death bed declarations and death bed declarations enjoy comparatively very high evidentiary value (True/ False).

Death Bed Dying Declarations & Other Dying Declarations

- Section 26 (1):-A dying declaration is a statement made by a person who is dead; as to ***cause of his death*** or as to ***any circumstances of transaction which resulted in his death***, in cases in which his death comes into question, such statement are relevant , whether the person who made them ***was or was not***, at the time when they were made, ***under expectation of death*** and ***whatever may be the nature of proceeding*** in which the cause of his death comes into question.
- So dying declarations can be classified into ***death bed dying declarations*** and ***other dying declarations*** (True/ False).
- A dying declaration alone cannot form the basis of conviction (True/ False).
- For DD, the declarant must have died (True/ False).

- **Pakala Narayana Swamy v Emperor (1939):** In the case of Pakala Narayana Swamy Vs. Emperor (1939), P.N. Swamy was charged with the murder of Kurri Nuka Raju, whose body was discovered in a steel trunk in a third-class compartment at Puri Railway Station on March 23, 1937. Prior to his death, on March 20, K.N. Raju, who lived in Pitapuram, received a letter from P.N. Swamy's wife inviting him to Berhampuram to collect a payment owed to him. K.N. Raju shared this letter with his wife, informing her of his intention to visit P.N. Swamy to receive the money. A key question in the case was whether K.N. Raju's statement to his wife about going to P.N. Swamy for the payment could be considered a dying declaration. The court ruled that this statement was admissible as a dying declaration, as it provided important context regarding the circumstances leading to K.N. Raju's death.

Factors Affecting Evidentiary Value of DD

- 1. The declarant is not tested by cross-examination.
- 2. It is not made on oath.
- 3. It is made when the victim is in pain and when his intellectual powers may be frail, fragile and feeble.
- 4. It may be tainted by influence and tutoring of relatives.
- 5. In case the person does not know who has caused injuries he may suspect someone and on the basis of guess work may implicate him.

	English Law	Indian Law
1	Expectation of Death: Requires the declaration to be made under the expectation of imminent death.	Does not necessitate an expectation of death for the declaration to be valid.
2	Timing of Declaration: Must be made after the cause of death has occurred.	Can be made even before the cause of death, allowing for a broader range of admissible statements.
3	Declarant's Belief in Impending Death: The declarant must believe their death is imminent when making the statement.	No requirement for the declarant to believe in their imminent death.
4	Applicability in Legal Proceedings: Dying declarations are admissible only in criminal cases.	Allows for the use of dying declarations in both civil and criminal proceedings.
5	Competency of the Declarant: The person making the declaration must be competent.	Does not strictly require the declarant to be legally competent.

Burden of Proof in Civil & Criminal cases

1. In criminal cases, the burden of proof is on the prosecution. In civil cases it is on both the parties.
2. In criminal cases, the guilt must be proved beyond reasonable doubt. In civil cases proof is enough.
3. In civil cases, the matter is decided by preponderance of probabilities. But in criminal cases proof beyond reasonable doubt is required.

Fundamental principles of criminal trial

There are five fundamental principles of criminal trial:

- a. The accused is presumed to be innocent till the conclusion of trial;
- b. The charge against the accused must be established beyond reasonable shadow of doubt.
- c. The benefit of reasonable doubt about the guilt will always go in favour of the accused. The natural corollary is that let 99 guilt go unpunished than punishing an innocent;
- d. If two views of one fact are possible, the court will accept the view which is favourable to the accused; and
- e. "Crime" must be clearly established in a criminal trial.

Alibi/Elsewhere

- Alibi taken by the accused to be proved by the accused. It is well-settled that the accused need not prove his innocence in a criminal trial, but the alibi taken by the accused must be established by proving the facts constituting the alibi. e.g. A is accused of committing murder of B in Calcutta on 2.1.2024. A takes the alibi that he was in Bombay on 2.1.2024. The burden of proof is on A to establish that he was in Bombay on 2.1.2024.

Use of statement when the injured survives-

- Sometimes the dying declaration of an injured person is recorded expecting that he shall succumb to injuries but he survives. In such cases his statement recorded as dying declaration cannot be used as a substantive piece of evidence as the dying declaration is used. The statements in such cases can be used for corroboration under Section 160 of the Act or for contradiction under Section 148 of the Evidence Act in case the declarant appears as a witness.

He who wishes to prove the dependent fact must prove the main fact (Sec. 107)

If the existence of a fact is dependent on the existence of another fact, that another fact must also be proved by the person who wishes to give such evidence.

Illustrations:

- a) 'A' wishes to prove a dying declaration by B, A must prove B's death.
- b) A wishes to prove, by secondary evidence, the contents of a document which is lost. A must first prove that the document has been lost.

He who claims exception has to prove (Sec.108)

When an accused claims that his case comes within an exception like insanity, intoxication, private defence etc., the burden of proving such exception is on the accused.

Illustration :

- (a) A, accused of murder, alleges that by reason of unsoundness of mind, he did not know the nature of the Act. The burden of proving his unsoundness at that time is on A.

He who has special knowledge of a fact must prove(S.109)

Section 109 deals with the burden of proving a fact within the special knowledge of a particular person. It says that when any fact is specially within the knowledge of a person then the burden of proving that fact is upon him.

Illustration :

- (a) A is charged with travelling on a train without a ticket. The burden of proving that he had a ticket lies upon A for it is a matter within A's special knowledge.

PRESUMPTIONS

- Presumptions of fact = May Presume
- Presumptions of Law:-
 - (a) Rebuttable presumptions of law = Shall Presume
 - (b) Irrebuttable presumptions of law = Conclusive proof

May **Presume**

- Discretion to presume or not to presume
- Discretion to presume in favour of this party or that party

Shall Presume/ **Conclusive Proof**

- Obligated to presume
- No discretion but to presume in the way directed by law

**May
Presume/Shall
Presume**

**Rebuttable=
Disprovable
(Presumption
drawn can be
disproved)**

**Conclusive
Proof**

**Irrebuttable=
Cannot be
disproved**

Husband or relative of the husband of a woman subjecting her to cruelty (S.85 BNS)

- Whoever, being the husband or a relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term that may extend to three years and shall also be liable to a fine.

Section 86-Cruelty defined.

- For the purposes of Section 85, “cruelty” means:
 - (a) any wilful conduct that is of such a nature as to be likely to **drive the woman to commit suicide or to cause grave injury or danger to the life, limb, or health** (whether mental or physical) of the woman; or
 - (b) harassment of the woman where such harassment is with a view to **coercing her or any person related to her to meet any unlawful demand for property or valuable security, or is on account of her or any person related to her failing to meet such demand.**

Section 117. Presumption as to abetment of suicide by a married woman.

- When the question is **whether the commission of suicide** by a woman has been abetted by her husband or any relative of her husband, and it is shown that she committed suicide within a period of seven years from the date of her marriage, and that her husband or such relative of her husband subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that **such suicide has been abetted by her husband or by such relative of her husband.**

S.117 Presumption as to abetment of suicide

1. The case must be of suicide, not murder.
2. Suicide must have occurred within 7 years from the date of the marriage
3. The question in issue must be whether suicide was abetted by husband or his relatives.
4. The evidence must have been adduced to show that her husband or the relatives of her husband had subjected her to cruelty.
5. The law presumes that her husband and his relatives abetted her to commit suicide.
6. It is a may presumption

S.108. Abetment of suicide

- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.
- Ex:Prathyusha

Ingredients of Section 118 (Presumption)

1. The woman must have died on account of burns, bodily injury or otherwise in abnormal circumstances.
2. She must have died within 7 years from the date of the marriage
3. It must be shown that soon before her death she was subjected to cruelty or harassment for or in connection with a demand of dowry
4. When the above points are established then court shall presume that the person who shown to have subjected her to cruelty or harassment caused dowry death.
5. The presumption can be raised only if the accused is being tried for the offence under section 304-B, IPC

Distinction between Ss. 117 & 118, BSA

- Section 117, BSA is read with Section 86 of the BNS. Whereas, section 118 is read with section 80 of the BNS
- Under section 117, the presumption is May presumption. Whereas, under section 118, the presumption is shall presumption
- Under Section 117 of the BSA and Section 85 of the BNS, the woman is subjected to cruelty and lastly she is compelled to commit suicide herself while under Section 118 of the BSA and Section 80 of the BNS it raises an adverse presumption against the accused that he had caused the dowry death **(killed her)** in question.
- Under section 118, dowry element is not necessary.

Distinction Between an Expert and an Ordinary Witness

- The distinction between an expert and an ordinary witness lies primarily in the nature of their testimony. An ordinary witness is required to testify solely about what they personally observed or experienced, whereas an expert's evidence extends beyond mere observation; they are permitted to provide informed opinions on the facts at hand. For example, a medical professional may offer their expert opinion regarding the cause of an individual's death. In a case where the question is whether the death of individual A was caused by the administration of Potassium Cyanide, the opinions of medical experts regarding the symptoms associated with Potassium Cyanide poisoning, which are believed to have contributed to A's death, are considered highly relevant. This ability to provide expert opinions allows for a deeper understanding of complex issues that may not be readily apparent to ordinary witnesses.

Lie-Detector Test / Narco-Analysis/ Brain-Mapping

- The use of advanced investigative techniques such as lie detector tests, narco-analysis, and brain mapping represents a complex intersection of science, ethics, and law in the realm of criminal investigations. These methods, while potentially offering insights into an individual's knowledge or involvement in a crime, occupy a contentious position in the Indian legal system. Crucially, the results obtained from these tests are not admissible as evidence in Indian courts, reflecting concerns about their reliability and the potential infringement on an individual's rights against self-incrimination. This legal stance underscores the principle that evidence must be obtained through means that respect both the rights of the accused and the integrity of the judicial process. Furthermore, the Indian legal framework mandates that these tests cannot be conducted without the explicit consent of the accused or suspect, emphasizing the importance of voluntary participation and personal autonomy.

ESTOPPEL & PROMISSORY ESTOPPEL

- Section 121 of the BNS embodies the principle of Estoppel, derived from the French term 'Estoup' meaning 'shut the mouth'. The principle of estoppel prevents a person from taking up an inconsistent position from what they have previously pleaded or asserted. It is based on the principle that "Justice prevails over truth". Estoppel serves to prevent individuals from asserting contradictory positions. The rule of estoppel is not applicable to criminal cases.
- **Caselet 1: A, in the presence of P, X, Y, and Z, states that a gold chain which is in his possession belongs to him and that he is willing to sell it for 5 lakh rupees. That gold chain actually belongs to P, but P, though present at the scene, kept quiet when A offered the gold chain for sale. Z purchases the gold chain from A. Now P brings a legal action against A and Z, praying the Court to set aside the sale. Will P succeed?**

Caselet 2:

- **P, in the presence of A, X, Y, and Z, shows a gold chain to all those present and states that the gold chain belongs to A and that A is willing to sell it for 5 lakh rupees. That gold chain actually belongs to P. Z purchases the gold chain from A. Now P brings a legal action against A and Z, praying the Court to set aside the sale. Will P succeed?**

Estoppel

- **A is a cloth merchant selling ladies' wear in Hyderabad. He visits Surat to make purchases for his shop. He purchases cloth worth Rs. 15,65,000 from PQR Co. and takes the parcel, packed by PQR Co., to a transporter, XYZ Co., and asks them to send the parcel to Hyderabad immediately. When asked by the transporter to mention the value of the goods in the parcel, A mentions the value as Rs. 10,65,000. The parcel is lost in transit. Now A claims Rs. 15,65,000 from the transporter, saying that as the actual value of the goods lost in transit and he can adduce evidence to that effect. Can A claim Rs. 15,65,000?**

Essential Conditions for the Applicability of S. 121

1. **Representation:** declaration, an act, or an omission.
2. **Existence of a Fact:** The representation must pertain to the existence of a fact rather than future promises or intentions. This distinction is crucial, as estoppel is based on established facts rather than speculative future actions.
3. **Intent to Rely:** The representation must be intended for the other party to rely upon it. This means that the person making the representation should have anticipated that the other party would take it into account in their decision-making.
4. **Belief in Truth:** The fourth condition stipulates that the other party must have believed in the truth of the representation.
5. **Action Taken:** There must be evidence that the other party took action based on the representation. This action should demonstrate that the party ***altered their position to their detriment or prejudice as a result of relying on the representation.***

Exceptions to the Doctrine of Estoppel:

- **No Estoppel Against a Minor:**
- **No Estoppel on a Point of Law:**
- **No Estoppel Against Statute/Sovereign Acts:** Estoppel, as a legal doctrine, **cannot be invoked to override or circumvent statutory provisions** or sovereign acts. **Laws, regulations,** and official government actions are immune from the application of estoppel. This fundamental principle ensures that the doctrine is not misused to contravene established laws and rules, as legal statutes and regulations take precedence over individual representations or actions, regardless of their nature or the circumstances in which they were made.

Promissory Estoppel

- **Promissory Estoppel under Indian Law:** The principle of promissory estoppel acts as a shield to protect those who rely on promises made in good faith. Promissory estoppel prevents a promisor (the one making the promise) from going back on their word if the promisee (the one to whom the promise is made) has acted upon the promise to their detriment. In essence, it prevents injustice arising from broken promises when reliance has occurred.
- Promissory estoppel is often invoked in cases involving government promises or representations. The courts have consistently held that the government is not exempt from the application of promissory estoppel and can be bound by its promises.

- **The competition among state governments to attract new industries has led to promises of concessions and tax holidays. If an industrialist, T, establishes his industry in response to a promised tax holiday for a period of five years, the state government cannot retract its promise once the industry is established. However, while the state government can withdraw the scheme at any time, such action would only affect future industrialists and would not impact those who have already established their industries in response to the initial incentives.**

Determining a Witness as PW/DW

Competency of a Witness

- Can a child aged 6 years be a competent witness?
- Can an accused be a competent witness?
- Can a relative/rival/enemy of a party be a competent witness?
- Can the spouse (wife/husband) of the party be a competent witness?

Matrimonial Communications (Sec.128)

- According to Section 128 communications between husband and wife are strictly protected from disclosure. According to this provision a spouse cannot be compelled to disclose the information given by the other spouse and is also not permitted to disclose any communication between them except with the permission of the other spouse.

Legal Rules as to Matrimonial Communications :1

1. The communication must have been made during the continuance of the marriage: Any communication made either prior to the marriage or after the termination of marriage is not protected from disclosure.

Legal Rules as to Matrimonial Communications

:2

2. Only communications are protected from disclosure but not the acts or conduct : This privilege is restricted only to communications between husband and wife but is not extended to acts or conduct of the husband or wife. Suppose the husband commits a murder in the presence of his wife, the wife can give evidence of what she has seen.

Legal Rules as to Matrimonial Communications

:3

3. The privilege does not end after the termination of marriage
:When a communication is made by one spouse to the other during the continuance of marriage, the privilege continues even after the dissolution of marriage.

Legal Rules as to Matrimonial Communications

:4

4. The privilege operates only against the husband or wife
but not against third persons:

A third person or a stranger is not prevented to give evidence of such communication. Suppose the husband makes a disclosure to his wife which is overheard by a neighbour, the neighbour can give evidence about such communication.

Circumstances in which disclosure of matrimonial communication is permissible :

1. Matrimonial communications can be given in evidence with the express consent of the spouse who made the communication.
2. In suits or criminal proceedings between the husband and wife matrimonial communications can be given in evidence.

Professional Communications (S.132)

- This privilege is confined to legal advisors and does not apply to other professionals like Doctors, Chartered Accountants etc., In other words, communications between a legal advisor and his client only are privileged. The reason for this rule is unless the client makes a free and frank disclosure of all facts, it is not possible for a lawyer to defend the case of a client in an effective manner. A client would make a free and frank disclosure only when there is a guarantee to him that what all he passes on to the lawyer would not be disclosed.

Documents as well as Advise

An Advocate is prohibited from disclosing not only the communication, but also the **advice given by him to the client as well as the contents of the documents with which he becomes acquainted in the course of his employment.** This privilege exists even after the employment ceases.

NOTE :According to S. 132, this privilege extends to the **interpreters, clerks or servants** of the advocates.

Exceptions

In the following cases an advocate may disclose the information passed to him by his client.

1. In case the client makes a communication in furtherance of an illegal purpose. (For example a client says to a lawyer "I wish to obtain possession of property by the use of a forged deed. I request you to guide me". This communication being made in furtherance of a criminal purpose is not protected from disclosure).
2. In case a lawyer finds any crime or any fraud committed after the employment began.
3. In case the client gives an express consent for the disclosure.

Example

- To **defend a person who has committed forgery** (such communication made by such person to his lawyer to the effect that he committed forgery, is protected from disclosure). If the lawyer is **consulted for fabricating a forged deed**, the communication made by client to his lawyer to the effect that he wants to obtain possession of some properties by use of forged deed, is not protected from disclosure.

Matters relating to conduct and knowledge of judge

A Judge or a Magistrate cannot be compelled to answer questions relating to

(a) his own conduct in court as **a Judge or Magistrate**

(b) anything which comes to his notice in court **as a Judge or Magistrate** , unless ordered by a superior court vide Sec.127.

NOTE:- However, a judge or magistrate can waive the privilege and volunteer to depose.

Ex=Allegation that the deposition was recorded wrongly or improperly

No privilege to matters which comes to his knowledge in his personal capacity

- The privilege under section 127 does not apply to matters which comes to the knowledge of a **Judge or Magistrate in personal capacity as an ordinary person.** For example, if a murder takes place in the court in the presence of the Judge and Magistrate, the **fact of murder comes to his knowledge as an eye-witness present at the scene** but not as a Judge or Magistrate and he can be asked as to how it took place

Evidence as to affairs of State (Sec.129)

- According to Section 129 a witness cannot be permitted to give evidence regarding **unpublished official records relating to affairs of state** without the permission of the concerned Head of the Department. The reason for the privilege is that the disclosure of the contents of such documents would harm public interest. The basis for Section 129 is the maxim "regard for public welfare is the highest law".

OFFICIAL SECRETS ACT

- The **Official Secrets Act** was first enacted in **1923** and was retained after Independence. The law, applicable to government servants and citizens, provides the framework for dealing with espionage, sedition, and other potential threats to the integrity of the nation.
- Section 5 of OSA, deals with sharing of information that can be in the form of “any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place”. Not just sharing this information, a person can be found guilty under the Act even for retaining such information in their possession.

RTI Act & OSA which has primacy?

- Section 22 of the RTI Act provides for its primacy vis-a-vis provisions of other laws, including OSA. This gives the RTI Act an overriding effect, notwithstanding anything inconsistent with the provisions of OSA. So if there is any inconsistency in OSA with regard to furnishing of information, it will be superseded by the RTI Act. However, under Sections 8 and 9 of the RTI Act, the government can refuse information.
- Effectively, if government classifies a document as “secret” under OSA Clause 6, that document can be kept outside the ambit of the RTI Act, and the government can invoke Sections 8 or 9.

MODSI

- The Manual of Departmental Security Instruction (MODSI) of the Ministry of Defence has laid down procedures and criterion for classification of documents as '**top secret**', '**secret**' and '**confidential**'. Papers containing vital information which cannot be disclosed for reasons of national security are classified as 'top secret', and these must not be disclosed to anyone for whom they are not essential. Such papers include references to current or future military operations, intending movements or disposition of armed forces, shaping of secret methods of war, matters of high international and internal political policy.

Section 129 involves two things

- (1) That the document is an unpublished official record relating to any affairs of State, and
- (2) the officer at the head of the department concerned may give or withhold the permission for giving the evidence derived therefrom.

AFFAIRS OF STATE : Documents pertaining to public (peace and) security, national defence and foreign relations (good neighborly relations)

Documents as to affairs of State

- It is only such documents which relate to the affairs of the State ***the disclosure of which would be detrimental to the public interest*** that come within the category of unpublished official records relating to affairs of State and entitled to protection under this section.

The following are examples of unpublished records of State, viz.,

1. documents exchanged between two states.
2. documents exchanged between Heads of the Departments or between ministers.

Unpublished/ Affairs of State

- Published is not to mean only those documents or papers which are printed for general circulation.
- To illustrate the class of documents would include:
 1. Cabinet papers
 2. Foreign Office dispatches
 3. Papers regarding the security of the State
 4. High level inter departmental minutes

Note: Unpublished documents relating to **trading commercial or contractual activities** of the State are not ordinarily to be considered as documents relating to affairs of the State

Court to decide

- It is for the court to decide whether a document falls within the category “unpublished official records relating to any affairs of State. “ In doing so the Court can have regard to all the circumstances ***barring the inspection of the document itself.***
- ***OBTAIN CERTIFICATE FROM HEAD OF THE DEPT=Not***
unpublished official record

Preliminary enquiry(S.129)

The court can hold a preliminary enquiry and **determine the validity of the objections to its production**, and that necessarily involves an enquiry into the question as to **whether the evidence relates to an affair of the State** under this section or not. In this enquiry the **Court has to determine the character or class of the document.** In such an enquiry, the concerned head **need not show or produce the particular document but other collateral evidence can be produced which may assist the court in determining the validity of the objection** under this section. Upon such preliminary enquiry if the **Court comes to an opinion that the document does not pertain to the affairs of the State ,it may reject the claim for privilege** and may insist for the production of the document.

Disclosure of communications made in official confidence (Sec.130)

- According to Section 130, no public officer can be compelled to disclose communications made to him in official confidence, if he considers that the public interest would suffer by the disclosure. It would normally include all officers including clerks of superior officers . If a question arises whether a communication is made in official confidence or not - such question is determined by the court.

Information as to commission of offences : (Sec.131)

- According to section 131, the Magistrates, the police officers and the revenue officers shall not be compelled to disclose the source of information received by them as to the commission of any offence. The section is enacted to protect the citizens, who help the officials by giving information regarding offences. If the name of the informer is revealed, the offender may cause harm to such person.

A saying on witnesses

- *Those who speak truth do not come to court*
- *Those who come to court do not speak truth*
- Witness=Person supposed to be acquainted with the facts and circumstances of the case.

Trap witness

- While such recovery should be made before witnesses, it is necessary to prove in the court the identify of the money and the fact that it was handled by the corrupt officer. The **serial numbers of the currency note tendered are to be noted down before the trap and the witnesses should be able to identify these notes**. Additionally the **currency notes would be treated with chemical substances like Anthracene or Phenolphthalein**.
- Phenolphthalein (powder) **turns into pink (caught red-handed)**
- **In UP Inquest is called Panchnama(PO-Panchnama mandatory/Magistrate-discretionary)**

	Accused as Witness	Accused as Accused
1	Oath is administered	Oath is not administered
2	Subject to Witnesses Examinations including Cross-Examination	Not Subject to Witnesses Examinations including Cross-Examination
3	Liable for giving False Evidence if gives False Evidence	Not Liable for giving False Evidence if gives False Evidence

Example 1:

- Consider a case where A, B, C, and D are accused of murdering Sheena. If B provides evidence against himself and the other accused, his testimony can fall into any of these three categories based on his position at the time of giving evidence.
- **Co-accused's Evidence:** When an accused, like B, gives evidence against himself and others during the trial proceedings while still in the capacity of an accused, this constitutes co-accused's evidence.
- **Accomplice's Evidence:** If B chooses to become a witness and testifies against himself and the others in this capacity, his evidence is classified as accomplice's evidence.
- **Approver's Evidence:** If B turns approver and provides evidence against himself and the other accused, his testimony is considered approver's evidence.
- Co-accused= capacity of accused
- Accomplice= capacity of a witness=Defence Witness
- Approver= capacity of a witness=Prosecution Witness

Confession of Co-accused/ Accomplice/Approver implicating himself and other accused persons

Co-accused—adduces evidence as **accused** inside or outside the court
(value=corroborative)

Accomplice—examined as a **defence witness only inside the court**
(value=corroborative)

Approver -- examined as a **prosecution witness(corr)**

- **Accused as Witness**= (1)administered oath(2)subject to cross examination(3)liable for giving false evidence
- **Accused as Accused**= (1)Not administered oath(2)Not subject to cross examination(3)Not liable for giving false evidence

Order of examination of witnesses

- A witness is first examined-in-chief by the party calling him. He shall then be cross-examined by adverse party, if the adverse party so desires. He may then be re-examined, if the party calling him so desires. (Sec.143 of BSA).
- In every case (governed by CPC), the **examination in chief of a witness shall be on affidavit** and copies thereof shall be supplied to the opposite party by the party who calls him for evidence
- An affidavit is a **declaration of facts, made in writing and sworn before a person having authority to administer oath**

Examination-in-Chief:

- Examination-in-Chief, a crucial stage in witness testimony under Indian law, refers to the initial questioning of a witness by the party who has called them to testify. This process is designed to elicit favorable testimony that supports the examining party's case. During this phase, the examining party or their advocate typically asks straightforward questions, avoiding tricky or leading inquiries, to allow the witness to present their account in a manner that establishes the case in the party's favor. The scope of questioning is limited to relevant matters, and leading questions are generally prohibited to prevent undue influence on the witness's testimony. Notably, the Code of Civil Procedure amendment in 2002 streamlined this process for civil cases by allowing the submission of witness statements through affidavits, effectively dispensing with the traditional oral examination-in-chief.

Ambit of Examination-in-Chief

- a. It must relate to **relevant facts of the case.**
- b. It is not ordinarily permissible to ask **leading questions** during examination-in-chief. However, leading questions may be asked with the **permission of the court** during examination-in-chief if the leading question is **introductory in nature or relates to undisputed facts** or relates to facts, which in the opinion of the court, are sufficiently proved (Sec.146 of I.E. Act).

Objects of cross examination

- I) to **destroy the general value of the evidence** given by the witness in chief examination
- II) to **bring to light facts suppressed** by the witness, and
- III) to **establish evidence in his favour by means of his opponent's witness**. (to obtain from such witness statements and admissions favourable to the party)
- IV) to destroy or weaken the case of the opponent by discrediting the witness.

Questions that can be asked in Cross Examination. -

- In the course of cross examination, a witness may be asked the following questions:
 1. Any leading question.
 2. Any question to test his truthfulness.
 3. Any question as to his previous written statements.
 4. Any questions to discover who he is and what his position in life is.
 5. Any relevant question which need not be confined to facts stated in the examination in chief.
 6. Any question to shake his credit by injuring his character although his answer might implicate him in a crime.

Disallowing certain questions in cross-examination

- The court can use its discretion judiciously to control the cross examination by disallowing the questions on the following issues:
 - a. Indecent and scandalous questions may be disallowed unless those relate to facts-in-issue (Sec.154 of BSA).
 - b. Questions intended to insult or annoy shall be disallowed (Sec.155 of BSA).

Re-examination:

- Re-examination is the final phase of witness testimony, conducted by the party who initially called the witness and performed the examination-in-chief. This stage serves a crucial purpose in the legal process by allowing the original examining party to address and **clarify any discrepancies or inconsistencies that may have emerged during cross-examination**. The primary objective is to reconcile contradictions and provide explanations for any apparent inconsistencies in the witness's testimony. As a general rule, re-examination is limited to matters that arose during cross-examination, and the introduction of new topics is typically prohibited. However, the law recognizes certain exceptions to this rule: new points may be introduced either with the explicit permission of the court or with the consent of the opposing party.

Re-cross examination

- Re-cross examination is a critical, albeit less common, phase in the witness examination process under Indian legal proceedings. This stage becomes available when new information or points are introduced during re-examination, either with the court's permission or the consent of the opposing party. The principle underlying re-cross examination is rooted in maintaining procedural fairness and ensuring that both parties have equal opportunities to scrutinize all aspects of a witness's testimony. When a new matter is brought up in re-examination, it potentially introduces elements that the opposing party hasn't had the chance to challenge or explore. Re-cross examination provides this opportunity, allowing the opposing counsel to question the witness specifically on these newly introduced points.

HOSTILE WITNESS

- The term "hostile witness" is not explicitly defined in the BSA, but it refers to a witness whose demeanor during testimony indicates a reluctance to tell the truth. In legal terms, a hostile witness is one who is allowed by the court to be cross-examined by the party that originally called them. This permission is granted at the court's discretion under Section 157 of the BSA. When such permission is granted, the party that called the witness can pose questions typically reserved for cross-examination, thereby challenging the witness's credibility. The court's discretion in this matter is broad and should be exercised whenever the witness's behavior—such as their demeanor, attitude, or the nature of their responses—suggests that allowing cross-examination is necessary to uncover the truth and ensure justice. Importantly, the court can grant this permission at any stage of the witness's examination, even after the opposing party has completed their cross-examination.

- **Major Changes Brought
About by the BSA, 2023**

Expanding the Scope of Oral Evidence:

- The Bharatiya Sakshya Adhiniyam (BSA) marks a significant evolution in Indian evidentiary law by expanding the definition of "evidence" under Section 2(e) to encompass "statements given electronically." This progressive amendment, incorporated in Section 2(e)(i), broadens the concept of oral evidence beyond traditional in-person testimonies. By recognizing electronically delivered statements as valid oral evidence, the BSA facilitates the remote participation of witnesses, accused persons, experts, and victims in legal proceedings. Consequently, **witnesses may now appear virtually before the court and provide testimony.**

Modernizing Documentary Evidence:

- The Bharatiya Sakshya Adhiniyam (BSA) significantly expands the scope of documentary evidence to reflect the digital age, incorporating digital and electronic records into its definition. This comprehensive update redefines the term 'document' to encompass a wide array of electronic formats, including emails, server logs, computer and smartphone files, digital messages, websites, locational data, and voice mail recordings.
- These include the videography of evidence collection at crime scenes for offences punishable by seven years or more

Admission of Electronic and Digital Records as Primary Evidence:

- Primary evidence means the original document, or a document simultaneously created with the original. To facilitate the inclusion of electronic and digital records in legal proceedings, Section 57 of the Bharatiya Sakshya Adhiniyam (BSA) expands the definition of "primary evidence." It specifies that any electronic or digital record created or stored in multiple files, whether simultaneously or sequentially, is considered primary evidence. **Furthermore, electronic records from proper custody are deemed primary evidence unless challenged.** In cases of video recordings stored and transmitted electronically, each stored version qualifies as primary evidence. **Additionally, automated storage spaces, including temporary files, are also treated as primary evidence.** These provisions clarify the treatment of electronic records, ensuring their admissibility in court.

Certification of Digital Records by Experts U/ S.63(4)

- Section 61 of the Bharatiya Sakshya Adhiniyam (BSA) ensures that no electronic or digital record can be deemed inadmissible if it meets the conditions outlined in Section 63. Specifically, Section 63(4) mirrors the provisions of Section 65B of the Indian Evidence Act and stipulates that, **in any legal proceeding where an electronic statement is to be presented as evidence, a certificate must accompany the electronic record.** This certificate should identify the electronic record, describe how it was produced, and provide details about any devices used in its creation, demonstrating that the record was generated by a computer or communication device as specified in earlier clauses. **Additionally, the certificate must be signed by the individual responsible for the computer or device, or the management overseeing the relevant activities.** An **expert's endorsement of the certificate's contents adds a layer of credibility.** **This requirement for expert certification under Section 63(4) enhances the accountability and reliability of electronically made statements presented as evidence, particularly those delivered through audio or video formats.**

Situations Requiring Expert Certification U/S 63(4) for Admissibility

- **Expert certification under Section 63(4) is essential for the admissibility of electronic records in specific scenarios.** The first category **includes digital recordings made following the enactment of new laws, such as audio and video recordings of victim and witness statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), which are preferable; audio and video recordings of search and seizure operations, which are mandatory; and recordings of other procedural activities like identification parades and property disposal, which are also preferable.** The second category encompasses **various digital devices routinely seized during investigations, including mobile phones, social media accounts, emails, computers, and CCTV footage.**

Expansion of the Scope of Secondary Evidence:

- The Bharatiya Sakshya Adhiniyam significantly expands the scope of what constitutes secondary evidence, as outlined in Section 58, going beyond the provisions of the Indian Evidence Act. This new statute broadens the definition to encompass not only oral and written admissions but also testimony from individuals with expertise in document examination who have assessed the relevant documents.
- (vi) Oral admissions;
- (vii) Written admissions;
- (viii) Evidence of a person who has examined a document, the original of which consists of numerous accounts or other documents that cannot conveniently be examined in court, and who is skilled in the examination of such documents.

Expanded Definition of Primary Evidence:

- Section 57 of the Bharatiya Sakshya Adhiniyam has been revised to expand the definition of primary evidence to **include electronic and digital records**. The new explanations under Section 57 detail that electronic or digital records created or stored simultaneously or sequentially in multiple files are considered original for each file. Additionally, video recordings stored in electronic form while being transmitted or broadcast are regarded as original for each stored instance.

Incorporation of Coercion in Confessional Admissions:

- Section 22 of the Bharatiya Sakshya Adhiniyam expands the scope of invalid confessional admissions by including "coercion" as a factor rendering a confession irrelevant in criminal proceedings. Under this provision, a confession is deemed inadmissible if the court believes it was made due to inducement, threat, coercion, or promise related to the charges against the accused. The influence must come from a person in authority and, in the court's opinion, be significant enough to lead the accused to reasonably believe that confessing would provide some advantage or help avoid negative consequences.

Provisions for Joint Trials:

- A joint trial occurs when multiple individuals are prosecuted for the same offence. The Indian Evidence Act permitted joint trials under specific conditions, primarily governed by the procedural guidelines outlined in the Code of Criminal Procedure (CrPC). The Bharatiya Sakshya Adhiniyam (BSA) upholds the provision for joint trials while introducing an important clarification: joint trials can proceed even if one or more accused persons have absconded or failed to respond to a legal proclamation. Section 24 of the BSA retains the language of Section 30 of the Indian Evidence Act, which addresses confessions that impact both the confessor and co-accused individuals being tried together for the same offence. Furthermore, **Explanation II to Section 24 specifies that a trial involving multiple defendants, where one has absconded or neglected to comply with a proclamation, will still be recognized as a joint trial. Moreover, if one of the accused confesses in a manner that implicates the others, that confession is considered applicable to all involved.**

Enabling Accomplice Testimony:

- Changes in Section 138 have been made to enable an accomplice to testify in court against the person accused of the crime. It clarifies that a conviction of the accused is not deemed illegal when it is based on the corroborated testimony of the accomplice. The original provision stated that conviction is not illegal merely because it proceeds upon uncorroborated testimony of an accomplice.

Evidence Of Formal Character

- Which of the following best describes the provisions of Section 332 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) regarding evidence of formal character on affidavit?
- A) Evidence of a person whose evidence is of a formal character may be given by affidavit and, subject to all just exceptions, may be read in evidence in any inquiry, trial, or other proceeding under the Sanhita.
- B) The court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in their affidavit.
- C) "Evidence of formal character" on affidavit refers to the use of a sworn statement to prove facts typically established by routine or official records, rather than detailed personal testimony.
- D) All of the above.
- A=D

Procedure For Admitting Documents In Evidence

- Which of the following best describes the procedure for admitting documents in evidence under Section 330 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)?
- A) When any document is filed before the Court by the prosecution or the accused, its particulars must be included in a list, and the parties are required to admit or deny the genuineness of each document soon after supply, and in no case later than thirty days after such supply.
- B) The Court may, at its discretion and with reasons recorded in writing, relax the thirty-day time limit for admitting or denying the genuineness of documents.
- C) If the genuineness of a document is not disputed, it may be read in evidence without formal proof of the signature of the person by whom it purports to be signed, though the Court may still require proof of signature if it thinks fit.
- D) All of the above.

SECURE THE PRESENCE OF A SUCCESSOR OFFICER FOR DEPOSITION

- Under Section 336 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), which of the following scenarios necessitates the court to secure the presence of a successor officer for deposition?
- A) The original public servant or expert is transferred, retired, deceased, cannot be found, or is incapable of testifying.
- B) The successor officer must hold the same post at the time of deposition, and their testimony may be conducted via audio-video electronic means.
- C) The report prepared by the original officer is disputed by any party to the trial or proceeding.
- D) All of the above.

Jessica Lal murder case

- Which of the following statements best reflects the legal provisions and consequences regarding perjury as applied in the Jessica Lal murder case, under the Bharatiya Nagarik Suraksha Sanhita (BNSS)?
- A) Witnesses who turn hostile or give false evidence in a judicial proceeding may be prosecuted for perjury, with the procedure outlined in BNSS and punishment as per Section 229 of the Bharatiya Nyaya Sanhita (BNS).
- B) The punishment for perjury in a judicial proceeding can extend up to seven years of imprisonment and a fine.
- C) In the Jessica Lal murder case, the Delhi High Court ordered perjury proceedings against Shayan Munshi and ballistic expert P.S. Manocha for allegedly resiling from their earlier statements as prosecution witnesses.
- D) All of the above

Complaint On Oath About The Abduction Or

Unlawful Detention Of A Woman Or Female Child

- Which of the following best describes the power granted to Magistrates under Section 101 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023?
- A) Upon receiving a complaint about the abduction or unlawful detention of a woman or female child, a District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class may order her immediate restoration and use necessary force to ensure compliance.
- B) Upon receiving information about the abduction or unlawful detention of a woman or female child, a District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class may order her immediate restoration and use necessary force to ensure compliance.
- C) Upon receiving a report about the abduction or unlawful detention of a woman or female child, a District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class may order her immediate restoration and use necessary force to ensure compliance.
- D) Upon receiving a complaint on oath about the abduction or unlawful detention of a woman or female child, a District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class may order her immediate restoration and use necessary force to ensure compliance.

Large Political Poster Blocking Traffic

- Which of the following authorities is empowered under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to issue orders for the removal of an unlawful obstruction, such as a large political poster blocking traffic on a public road?
- A) Judicial Magistrate of first class
- B) Chief Judicial Magistrate
- C) Sub-Divisional Magistrate
- D) District Judge