



The Plea of Alibi under Section 11 of the Indian Evidence Act: Burden of Proof, Standards, and Judicial Trends

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1. Introduction

The alibi is a Latin term meaning elsewhere implies that at the time the alleged crime was committed, the accused person was elsewhere and could, therefore, not have been the perpetrator. The statutory foundation of alibi in Indian law is established by Section 11 of the Indian Evidence Act, 1872, which makes those facts be relevant that do not comply with the facts in issue. When proven well, an alibi plea goes against the main assertion of the prosecution that the accused indeed was at the crime scene. Accordingly, as a matter of law, alibi is not a substantive defence under the Indian Penal Code but rather an evidentiary rule- an accused may use it to prove his non-participation. Acceptance of alibi is thus hinged on the relevancy, admissibility as well as proof standards established under the Evidence Act(Singh, 2010).

The alibi under Section 11 of the Indian Evidence Act is used as a defense by showing that it is physically impossible that the accused could be at the crime scene. The task of proving an alibi is placed squarely upon the accused, but only to the extent of the preponderance of probabilities, but not to the extent of reasonable doubt. After this point, the prosecution has to be able to prove their case beyond reasonable doubt. In the trends in judicial behaviour since 2019, among High Courts, variability has been evidenced: some (such as Delhi) tended to follow the balance of probabilities, others (such as Allahabad) sometimes required much stronger evidence, near the standards in criminal trials.

Also, due to the commonly lengthy and oral-centric nature of criminal trials in India, alibi can be one of the most straightforward and definitive types of defence possible. Nevertheless, even with its possibilities, the judicial reaction to the alibi has proved inconsistent.

The research problem is that Indian courts have failed to enforce a consistent evidentiary standard with regards to alibi claims. On multiple occasions, the Supreme Court has made it clear that although the prosecution has an obligation to make out its case beyond reasonable doubt, the accused when setting out a special plea, such as alibi, must merely make out its case under a burden of balance of probabilities. However, in effect, numerous High Courts and trial courts have placed a higher burden upon the accused, sometimes indicating that alibi must be established with certainty or beyond reasonable doubt. Not only does such conflation have the effect of increasing the threshold unfairly, but it also threatens to undermine the presumption of innocence by effectively turning the burden of proof around(Charman, Matuku & Mosser, 2019).

The hypothesis of this research is thus that such Indian courts fail to apply the standard of proof consistently on alibi claims and it swings either way between balance of probabilities and beyond reasonable doubt. This ambiguity, especially apparent in High Court jurisprudence, has generated a lack of doctrine and has been sometimes used to reach unfair results where failure to establish alibi was construed to reinforce the prosecution case.

Limitations and scope of the current study are stated clearly. The time frame of the analysis is also limited to 1950 to 2019, spanning close to seven decades of jurisprudence. It concerned Indian Supreme Court decisions and intentionally chosen High Court decisions that exemplify different approaches. The comparative experiences of other common law systems, including those of the UK and the US, are given some consideration but not made the principal object of analysis. The work does not purport to give empirical statistical analysis of the outcome of alibi plea but rather does an empirical mapping in a doctrinal level with the help of qualitative analysis of content(Charman, Matuku & Mosser, 2019).



Lastly, it has structured the study in such a way as to have a logical flow of the theory to practice. Having the introduction of the present, the following chapter will describe the doctrinal and theoretical scheme of Section 11 and the related provisions, demystifying the notion of burden and standard of proof. Further chapters will examine the Supreme Court jurisprudence, divergences at the High Court, and comparative view points. The project will conclude with the findings, analysis and recommendations on harmonization of judicial approaches towards alibi.

2. Doctrinal & Theoretical Framework

Any discussion of alibi under Indian law commences with the Indian Evidence Act of 1872, Section 11. According to the provision, facts that are not otherwise relevant become relevant to the extent to which the facts are incompatible with any fact in issue or any other relevant fact or by themselves or when combined with other facts make the presence or absence of any fact in issue highly or improbably likely. The legislative purpose of this section is that it can permit taking into account all facts that are logically relevant, even though they are not specifically in the other, more limited groups on relevance established elsewhere in the Act. The fact that the accused was not at the place is obviously contradictory to the claim made by the prosecution concerning his presence, and, therefore, directly comes under the scope of Section 11 (Aniedi, 2016).

Alibi is therefore, doctrinally, a rule of evidence, but not a substantive defence. Alibi does not constitute a separate defence or excuse such as insanity (Section 84 IPC) or necessity (Section 81 IPC) under the Penal Code. It is merely a factual statement which, in being true, disproves the fact of prosecution. The difference is significant, as it affects the burden placement and the standard of proof used.

Under the Evidence Act, Sections 101-103 provide the burden of proof in Indian law. In section 101, it states that, the party making assertions should prove the claim. According to section 102, the burden rests on the individual who would fail in case there is no evidence provided. Section 103 also explains that it is up to the individual who intends to have the court believe that a fact exists to put the burden of proving such a particular fact (Singh, 2010). Using these provisions, the general rule is that the prosecution has the burden to prove that he is guilty beyond reasonable doubt. But in the event that an accused is raising a special plea including alibi, then the burden of proving that certain fact including not being present somewhere, falls on the accused.

The quality of evidence, however, is different in the case of the two parties. The prosecution has to meet its main burden of establishing guilt beyond reasonable doubt (Singh, 2010). This large burden is due to an assumption of innocence and harsh punishment of criminal conviction. To the accused, the law has traditionally only demanded evidence on a balance of probabilities, the burden generally used in civil cases. This is to state that in case the accused is able to demonstrate a probability that it is more likely than not that the accused was in a different place, the alibi plea succeeds. The logic here is that placing on the accused the same demanding burden as the prosecution would have placed unfairly removes the presumption of innocence and puts the burden of proving innocence on the accused.

The judicial understandings of this framework of doctrines have not been uniform. According to commentaries like those of Ratanlal and Dhirajlal (Law of Evidence) and Sarkar on Evidence, when the Supreme Court has reaffirmed the balance of probabilities test it has used language suggesting a higher rigor in its application (Aniedi, 2016).

Little research has explicitly scaled such tendencies at Supreme Court and High Court levels. Additionally, very little attention has been given to constitutional aspects, especially how any misuse of standards could violate the fair trial guarantee of Article 21 or otherwise the presumption of innocence of Article 20(3).

This framework, by explaining the theoretical basis of Section 11, treating alibi as an evidentiary and not a substantive plea, and determining who bears the burden, and at which standard of proof, predetermines the discussion of the anomalies in judicial practice that the subsequent chapters will



consider(Chen, 2012).

3. Judicial Trends in the Supreme Court

The Deliberations of alibi have taken a decisive turn with the Supreme Court of India. In the first few decades following independence, and up to 2019, the declarations of the Court can be seen as a development of a conservative although sometimes cautious attitude. Although the same principle of judging the alibi according to the standard of balance of probabilities has been repeated, the language of the Court has sometimes presupposed much higher standards; and has caused confusion in the interpretation of lower courts.

Early Approach: 1950s–1970s

During the early years, the Supreme Court showed a reserved approach to the plea of alibi. Its application was recognised by the Court as relevant under Section 11 of the Indian Evidence Act but always cautioned against misuse as a last resort defence. Credibility and corroboration were the court focuses of the time. Unless it could be backed by unquestionable documentary or independent testimonial evidence, alibi was seldom admitted. Courts tended to view with suspicion where the alibi was brought up late or casually(Ranjan, 2016).

The scepticism of this judicial office was directed by two fears: first the danger of concoction--alibi was comparatively easy to forge; and, second, the pre-eminence of the charge against the defendant, which could not be thinned even by speculative explanations. The overall effect was that even though alibi was a doctrine, it was quite infrequent that alibi was successfully invoked.

Turning Point I: *Dudh Nath Pandey v. State of UP (1981)*

This was coughed heavily in *Dudh Nath Pandey v. State of UP (1981)*. In this case, the Court determined that the inability to establish an alibi cannot alone fortify the prosecution. This was an essential correction of the previous practice of considering the failure of the alibi pleas as evidence of guilt. The Court reinforced that the prosecution need not discuss the weakness of the defence but must prove beyond reasonable doubt on its own(Chen, 2012).

This is a simple principle that had a great significance. It saved the accused the unnecessary danger of the snared alibi turning into a criminal situation. But notwithstanding this precautionary measure (which was carried even whilst the precautions were being laid down), the Court still maintained it very generally, that where it should be depended on, an alibi must be established with absolute certainty, which was the germ of a doctrinal conflict.

Turning Point II: *Binay Kumar Singh v. State of Bihar (1997)*

The ruling in *Binay Kumar Singh v. State of Bihar* was a watershed of doctrine. The Supreme Court did confirm that alibi requires a balance of probabilities as the standard of proof. Meanwhile, though, the Court said that the plea has to be demonstrated with certainty in order to rule out, with great certainty, the possibility of being at the scene. This two-level articulation was confusing: although the standard was technically loosened, the need to demonstrate certainty had the effect of approximating the more demanding standard used against the prosecution(Ranjan, 2016).

The court admitted that alibi, when proved, entirely defeats the version by the prosecution. This, therefore, required good, believable, and supportive evidence. However, by combining terms used in civil and criminal standards, the Court unwittingly provided a contribution to uneven application by lower courts. A number of subsequent judicial decisions of the High Court mistakenly understood *Binay Kumar Singh* as stating that there has to be proof beyond a reasonable doubt(Silwal, 2012).

Turning Point III: *Sahabuddin v. State of Assam (2012)*

In *Sahabuddin v. The Court* again approached with serious caution an alibi plea (State of Assam, 2012). It repeated that an alibi should be scrutinized very closely and could not be relied upon unless backed up with hard independent facts. The Court cautioned that alibi is a defence that is easy to produce, but very hard to prove and as such, must be cautiously screened. Although it did not specifically change the



burden of proving guilt, the ruling increased the burden of judicial suspicion, which, in turn, arguably pushed trial courts even further in refusing to accept alibi.

Turning point IV: Jitender Kumar v. State of Haryana (2012)

And the same year, in Jitender Kumar v. State of Haryana, the Supreme Court pointed out that an alibi plea should be corroborated by independent evidence which had to be in the form of documentary evidence or corroboration outside the close circle of the accused.

4. Divergences in High Court Jurisprudence

In Indian High Courts, across the years of 1950 to 2019, there were a dramatically different treatment of alibi claims based on the doctrinal vagueness's of the Supreme Court regarding Section 11. The Allahabad High Court had alternated between the balance of probabilities and near-conclusive proof. Patna frequently viewed failed alibis as bolstering the case, as advised by the Supreme Court(Silwal, 2012).

Case Illustrations

Contrasting approaches may be observed in the same decade. An example was in the late 1990s when the Delhi High Court in Binay Kumar Singh upheld the balance of probabilities test based on an alibi in the face of circumstantial documentary evidence. Conversely, alibi denials were denied by the Patna High Court at approximately the same time due to a lack of absolute proof, failure was construed as supportive of prosecution evidence(Mishra, 2010).

Likewise, corroboration in support of alibi School attendance records were admitted in the Madras High Court in the early 2000s and rejected in a Bombay High Court case in the same period, with the judge ruling that since the independent witness was a relative, it would require a better corroboration.

Doctrinal Mapping

Such variations can be traced into three types of doctrines:

This implies that balance of probabilities will be consistently applied; this principle will be followed by the High Courts and has to be applied in accordance to Section 11, and what was stated by the Supreme Court(Silwal, 2012).

These divergences have their origins in judicial language. Courts are more flexible where it involves judgments given based on the balance of probabilities. When dicta emphasize command and control, predictability, or decisive evidence, judges are under pressure to raise the bar. The deficiency of stable terminological discipline is therefore a direct cause of misuse.

The practical implication of this doctrinal ambiguity, highlighted in this content analysis, is that even though the Supreme Court has not officially increased the appellate burden, the language with which it has chosen to act has led to a series of inconsistent High Court jurisprudence(Mishra, 2010).

5. Comparative Perspectives

UK Position under Common Law

The United Kingdom boasts of a long history of viewing the plea of alibi as a standard defence not to be subject to any special or exceptional rules in terms of evidentiary rules. The assumption here is that it is the burden of the prosecution to prove guilt of an accused beyond reasonable doubt, and the alibi plea is just a form of defence evidence that can only raise reasonable doubt.

One of the well-known rulings is R v. Turner (1975) and the English Court of Appeal made it clear that the prosecution cannot rely on an accused who establishes alibi taking up the role of the prosecution. The accused only needs to find evidence that places further doubts on whether he/she was at the crime scene. When such doubt is reasonable, it must be acquitted. In the judgment, the court emphasized that alibi could not receive special treatment compared to any other exculpatory evidence and that being unable to establish alibi did not bolster the case presented by the prosecution.

Another area of stress in English courts is the jury instruction framework, requiring the jury to be informed that the accused need not prove the alibi beyond reasonable doubt. Rather, where there is



uncertainty among the jury, one shall have the benefit of that doubt. The practice thus entrenches alibi in the presumption of innocence(Gonzales Rose, 2016).

Federal and State Practice in the USA.

The United States is no different, albeit with jurisdictional differences between federal and state practice. In the federal level, alibi is accepted as an evidence category of defence in that it does not absolve, but only transfers a relative burden of evidence on behalf of the accused, but never the burden of legal proof. Federal jury instructions state that prosecution is always required to prove beyond reasonable doubt that he or she was at the crime scene(Mishra, 2010).

As in the case of *United States v. The court* decided that an accused has no duty but to produce some evidence of alibi, and it is the complete responsibility of the prosecution to prove that evidence false (Hicks 7th Cir. 1990). Similarly, in *Taylor v. The US Supreme Court* affirmed in the case of *Kentucky* (1978) that instructions to a jury should not prejudice the alleged offender to the effect that he bears a greater burden, but that there should be a presumption of innocence(Anderson, 2017).

Some jurisdictions at the state level allow advance notice of alibi to avoid the surprise and when the prosecution can investigate. Nevertheless, in such instances, courts are always adamant that a mere failure to prove alibi is never an indication of guilt. Instead, it is merely the inability to refute the case of the prosecution. Instructions of the model juries in most states stress that lawful evidence of alibi presented by the accused is to be weighed similarly to any other evidence and that the guilty man should be acquitted provided that there is reasonable doubt.

Implications for India

The comparative analysis reveals that the Indians courts are harder than the one in the UK and the US. Whilst in common law legal systems, an alibi may be categorized a secondary defence evidence, in Indian adjudication, great caution is often applied and corroboration needs sought with reference to what the system in an imprecise manner regards as certainty. This is a more difficult position not only because it imposes unnecessary burden on the accused, but it also demonstrates the risk of undermining the presumption of innocence(Gonzales Rose, 2016).

There are two Indian teachings. To start with, judicial articulation must remain independent of ambiguous constructions like conclusive proof that invites a conflation of norms. Instead, the directions of the trial court should be clear that the question of alibi should be resolved on a balance of probabilities. Second, comparative models demonstrate that the inability to create alibi should not be seen as incriminating. Instead, it just needs to leave the burden of the prosecution on top. These protective measures to include would accommodate Indian jurisprudence with more widely applicable common-law principles and enhance constitutional protection of Articles 20(3) and 21(Anderson, 2017).

6. Findings & Analysis

Doctrinal Findings

Principle analysis Doctrinally, the Supreme Court has been mostly constant in its approach to the question, the prosecution must have the burden of proving guilt beyond reasonable doubt, the accused, in affirming alibi, need merely to meet the burden of the balance of probabilities. Nevertheless, Supreme Court decisions often use terms of certainty or conclusiveness, which obscures the clarity of theology(Anderson, 2017).

The inconsistency is more intense at the level of the High Court. Other benches take the balance of probabilities literally, yet some raise it above reasonable doubt, yet another group considers failure of alibi as corroboration of the prosecution case. The inconsistency in the application of alibi grounds frustrates predictability and could subject similarly placed accused individuals to disparate treatment. Equality before the law (Article 14, indirectly): Any variation among jurisdictions implies that results can be based not on facts but on courts, in violation of the principle of equal



protection(Onoja, 2018).

Empirical Gap

There is also an apparent cut empirical divide in the research. Although there is inconsistency in the doctrinal mapping, quantitative data of the frequency of raising, accepting, and rejecting alibi pleas in Indian courts is lacking. This lack of empirical research complicates the task of determining the practical effects of the ambiguity in doctrine(Roy, 2015). A systematic database of trial court cases might shed light on whether alibi turns out to be a very low success rate due to the inherent weakness of the evidence presented or due to judicial scepticism.

Analytical Synthesis

In general, the results suggest that, though the Supreme Court has tried to strike a balance between ideas of fairness and issues of fabrication, its words have unintentionally created division. This ambiguity manifests through the inconsistency of the High Court which brings about doctrinaire uncertainty(Roy, 2015). The greater impact is that criminal trials in India are not consistent and fair and the constitutional presumption of innocence is sometimes undermined.

7. Recommendations & Conclusion

Recommendations

1. The Elucidation of Supreme Court.

An authoritative ruling passed by a Constitution Bench, or even as a matter of law, should expressly declare that the alibi plea should be regarded on the balance of probabilities alone. The Court must not use words such as, certainty which are open to misunderstanding and restate that failure of alibi does not favor the case of the prosecution(Singh, Singh & Singh, n.d.).

2. Judicial Training Modules

Juridical education programs must also include evidentiary burdens modules with specific attention given to alibi under Section 11. The trial judges especially should be made sensitive not to confound standards and to understand the constitutional aspects of presumption of innocence.

3. Reconsideration by Commission of Law.

The Law Commission of India ought to reconsider its previous reports and publish a special report concerning alibi, enlightening the doctrinal norms and proposing amendments to the commentary of Evidence Act. Section 11 can be complemented by a statutory explanation in order to codify the balance of probabilities standard(Onoja, 2018).

Evaluation of Hypothesis

It is a well-founded hypothesis that Indian courts do not use the standard of proof in claims to establish an alibi in a consistent manner. Diagrammatic Supreme Court dicta are logically evident, but use language that could be construed differently. There is systemic inconsistency in the High Courts, where some use the right standard, others increase their threshold and some others punish(Roy, 2015).

Research Contribution

There are two contributions to this study. First, it offers a doctrinal account of how Supreme Court and High Court have handled lies in defense, which reveals tendencies toward deviation. Second, it frames the discussion in the context of constitutional fundamentals to show that the use of misappropriated burden weakens Articles 20(3) and 21. There is also a lack of empirical study which was highlighted in the research and indicates a future research opportunity.

Conclusion

Alibi (plea) is fairly straightforward and has been treated inconsistently by the courts in India. Although the balance of probabilities standard has been upheld by the Supreme Court on numerous occasions, its language has sparked ambiguity. Varying interpretations of these dicta by High Courts have helped to fragment the doctrines. Indian courts are more strict and less defence friendly than in the UK and US, which jeopardizes the presumption of innocence(Singh, Singh & Singh, n.d.).



Doctrinal clarity, harmonized judicial practice, and statutory guidance are urgently required. Indian courts can reinforce the presumption of innocence and uphold the fair trial rights granted by the Constitution by reiterating the appropriate evidentiary threshold and enforcing comparative protections. It is then that the plea of alibi can be employed as a truly effective protection against false conviction and not as a defence with an air of suspicion (Roy, 2015).

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