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EXAMINING THE EVIDENTIARY VALUE OF AN ACCOMPLICE'S TESTIMONY IN INDIA

~Sneha Sethi

INTRODUCTION

An accomplice, or a *participes criminis*, i.e., a partner in crime¹, is a person who aids the principal offender(s) in the commission of a crime as an accessory, abettor, or principal offender.² Under Section 343 of the BNSS, the court has the power to grant a pardon to an accomplice in exchange for a full and true disclosure of the circumstances within his knowledge regarding the commission of the offence and the co-accused involved.³ Such an accomplice is known as an approver and is produced as a witness. The Indian Evidence Act, 1872 contains provisions regarding the testimony of an accomplice. The core issue stems from the evidentiary value of such testimony - whether it constitutes substantive evidence or requires corroboration with other evidence. Under the Evidence Act, two sections provide the statutory rule regarding the evidentiary value of an approver's testimony. However, due to the seemingly conflicting nature of such provisions, the principles clarifying the evidentiary value of an approver's testimony have evolved through judicial interpretation.

THE INTERPLAY BETWEEN SECTIONS 133 AND 114(b)

Section 133 of the Evidence Act states that an approver is a competent witness against an accused person. Further, it provides that the testimony of an approver, even if uncorroborated, is capable of convicting the accused, provided that it is credible and trustworthy. Therefore, the Section establishes that a conviction is not illegal merely because it is based on the uncorroborated testimony of an approver.⁴ However, Illustration (b) to Section 114 of the

¹ Juhi Naseem, *A Critical Analysis of Accomplice Evidence in Criminal Trial*, 16 INT'L. J. ECON. PERSP., 36 (2022).

² Sheshanna Bhumanna Yadav v. State of Maharashtra, (1970) 2 SCC 122.

³ Bharatiya Nagarik Suraksha Sanhita, 2023, § 343, No. 46, Acts of Parliament, 2023.

⁴ Indian Evidence Act, 1872, § 133, No. 1, Acts of Parliament, 1872.

Evidence Act provides that the court may presume that an accomplice is unworthy of credit unless corroborated in material particulars⁵, thereby establishing the discretion of the court to discard the uncorroborated testimony of an approver. Due to the apparent inconsistency between the aforementioned sections, the courts were tasked with determining whether corroboration of an approver's testimony is a rule of prudence or a statutory mandate.

JUDICIAL INTERPRETATION

Over the years, it has been established that a conviction can be based on the sole testimony of the victim or any other witness if it is reliable and inspires confidence.⁶ However, the courts have been hesitant to place an accomplice on par with other witnesses. This is due to the fact that an accomplice's testimony is given in exchange for a pardon, leaving open the possibility that he or she may manipulate or falsify the details or attempt to implicate an innocent person⁷ in order to ensure his or her acquittal.

In *R v. Baskerville*⁸, the principles surrounding the corroboration of an accomplice's testimony were laid down by the English Criminal Court of Appeal. Lord Reading held that such testimony must implicate the accused and must be corroborated by independent evidence⁹. Further, it was observed that it is not a compulsory requirement that every detail of the offence be confirmed by such testimony, but only the material particulars. A conviction can be based on the uncorroborated testimony of the accomplice, but only after exercising sufficient caution.¹⁰

In *Sarwan Singh v. State of Punjab*¹¹, the Supreme Court formulated a double test regarding an accomplice's testimony. Firstly, such testimony should be reliable and credible. Secondly, once such evidence is established as reliable, it should be corroborated by other evidence. Further, in *Haroon Haji Abdulla v. State of Maharashtra*¹², the Supreme Court held that the rule of

⁵ *Id.* §114(b).

⁶ *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

⁷ *Ram Narain v. State of Rajasthan*, (1973) 3 SCC 805.

⁸ *R v. Baskerville*, [1916] 2 KB 658.

⁹ Gordon Dixon, *Criminal Law Evidence—Rape—Corroboration—Whether Complainant May Be Corroborated by Accomplice—Admissions—Admissibility—Exclusion of Exculpatory Statements—Regina v. Sigmund, Howe, Defend, Curry*, 7 ALTA. L. REV., 156 (1968).

¹⁰ Justice Narayana Pisharadi, *Testimony of an Accomplice – Any Shift in the BSA?*, LIVE LAW (May 29, 2025, 9:49 AM), <https://www.livelaw.in/articles/accomplice-testimony-admissibility-section-133-evidence-act-vs-section-138-bharatiya-sakshya-adhiniyam-293694>.

¹¹ *Sarwan Singh v. State of Punjab*, (1957) 1 SCC 673.

¹² *Haroon Haji Abdulla v. State of Maharashtra*, 1967 SCC OnLine SC 94.

caution or prudence, requiring corroboration of the approver's testimony by other direct or circumstantial evidence, has virtually attained the position of statutory law.

CHANGES INTRODUCED BY THE BSA

With the implementation of the BSA, 2023, certain changes were introduced in the provisions relating to approver witnesses. The newly added Section 138, which replaced Section 133 of the erstwhile Evidence Act, states that a conviction is not illegal if it proceeds upon the corroborated testimony of an accomplice¹³. The word "uncorroborated" was replaced with the word "corroborated" to resolve the conflict between Sections 133 and 114(b) of the Evidence Act, now Sections 138 and 119(b) of the BSA.¹⁴

RECENT DEVELOPMENTS

In *Gopi Chand v. State* (2026)¹⁵, the Supreme Court, deviating from the aforementioned judgments, held that corroboration of an approver's testimony is not an inviolable rule mandated by law but rather a rule of prudence. The Court observed that while greater caution and care must be exercised in such cases, an accused can be convicted on the basis of the reliable, uncorroborated testimony of such person. However, it is pertinent to note that the aforementioned appeal was instituted before the enactment of the BSA and was governed by the provisions of the Evidence Act due to the non-retrospective application of the BSA.¹⁶ Therefore, while it is a landmark judgment concerning the evidentiary value of an approver's testimony, it does not clarify the legal position regarding the same within the ambit of the provisions of the BSA.

CONCLUSION

The question concerning the need for corroboration of an accomplice's testimony remains a contentious issue. While, in most cases, emphasis is placed on the corroboration of the accomplice's testimony to ensure a fair trial, in some cases, the courts have proceeded on the uncorroborated testimony of an accomplice. However, with the changes introduced by the BSA, 2023, it is more likely than not that the principle of corroboration will be followed as a statutory rule.

¹³ Bharatiya Sakshya Adhiniyam, 2023, § 138, No. 47, Acts of Parliament, 2023.

¹⁴ Pisharadi, *supra* note 10.

¹⁵ *Gopi Chand v. State* (NCT of Delhi), 2026 SCC OnLine SC 997.

¹⁶ Bharatiya Sakshya Adhiniyam, 2023, § 170, No. 47, Acts of Parliament, 2023.