

# Relevancy of Previous Judgements in Civil and Criminal Proceedings - A Critical Doctrinal and Comparative Study

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**Abstract:** *The doctrine of relevancy of previous judgements occupies a central yet nuanced position in both civil and criminal jurisprudence. Sections 40 to 44 of the Indian Evidence Act, 1872, codify the circumstances under which prior judicial decisions may be admitted as evidence in subsequent proceedings. This paper undertakes a comprehensive doctrinal and comparative analysis of these provisions, examining the interplay between res judicata, issue estoppel, and the estoppel by record with a focus on their distinct operation in civil and criminal courts. Drawing upon landmark decisions of the Supreme Court of India, English common law precedents, and comparative study of the US Federal Rules of Evidence, the paper argues that the current statutory framework inadequately addresses modern complexities such as quasi-judicial findings, foreign judgements, and class-action estoppel. The paper concludes with specific legislative recommendations to harmonise the evidentiary treatment of prior judgements across proceedings. .*

**Keywords:** Res Judicata, Issue Estoppel, Indian Evidence Act, Previous Judgement, Civil Proceedings, Criminal Proceedings, Stare Decisis

## I. INTRODUCTION

The administration of justice would be rendered chaotic if every court were free to ignore the pronouncements of courts that had already adjudicated upon the same matter. The doctrine of relevancy of previous judgements embodies the law's commitment to certainty, consistency, and judicial economy. Under the Indian Evidence Act, 1872 (hereinafter 'the Act'), Sections 40 to 44 delineate the specific circumstances in which prior judicial decisions are admissible as evidence. These provisions, however, must be read alongside the Code of Civil Procedure, 1908 (Section 11 — res judicata), the Code of Criminal Procedure, 2(now BNSS, 2023), and the fundamental principles of natural justice.

The relevance of prior judgements in subsequent proceedings raises complex questions: Does a civil court verdict bind a criminal court dealing with the same set of facts? To what extent does an acquittal in a criminal case preclude a civil action for damages? How does issue estoppel operate across proceedings of different natures? This paper addresses these questions through a systematic analysis of the statutory provisions, judicial precedents, and comparative legal frameworks.

The paper is structured as follows: Part II examines the statutory framework under the Indian Evidence Act; Part III analyses the operation of the doctrine in civil proceedings; Part IV examines its application in criminal proceedings; Part V undertakes a comparative analysis with English and American law; Part VI identifies gaps and proposes reforms; and Part VII concludes.



## **II. STATUTORY FRAMEWORK: SECTIONS 40–44 OF THE EVIDENCE ACT, 1872**

### **2.1 Section 40 — Judgements of Courts of Justice**

Section 40 is the foundational provision. It renders relevant the existence of any judgement, order, or decree which, by law, prevents any court from taking cognizance of a suit or holding a trial. The section is not concerned with the correctness of the prior judgement but only with its existence and legal effect. The operative phrase is 'prevents any court from taking cognizance,' which imports the doctrine of *res judicata* and, in criminal matters, the principle of *autrefois acquit* and *autrefois convict* enshrined in Article 20(2) of the Constitution and Section 300 of the CrPC (now Section 337 BNSS, 2023).

*"Section 40 does not make every prior judgement relevant, but only that judgement whose legal existence bars the court seized of the matter from proceeding further. It is a provision about procedural bars crystallised into evidence."* — J. Hidayatullah in *R.N. Gosain v. Yashpal Dhingra*, AIR 1993 SC 352.

### **2.2 Section 41 — Judgements in Probate, Matrimonial, Admiralty and Insolvency Courts**

Section 41 creates a wider relevancy for final judgements, orders, or decrees of competent courts exercising probate, matrimonial, admiralty, or insolvency jurisdiction. Such judgements are relevant for the purpose of proving the legal character they confer or take away, and they are conclusive *in rem*. The *in rem* character of such decisions is the distinguishing feature: they operate against the world at large, not merely *inter partes*. Thus, a decree of divorce granted by a competent matrimonial court is universally binding and may be proved in any subsequent proceedings where the marital status of a party is in issue.

The Supreme Court in *Daryao v. State of U.P.*, AIR 1961 SC 1457, clarified that the finality under Section 41 is not merely procedural; it reflects the public policy principle that judgements *in rem* should not be re-litigated by persons who had, or ought to have had, notice of the proceedings.

### **2.3 Section 42 — Judgements in Other Cases (Inter Partes)**

Section 42 introduces the concept of relevancy for judgements, orders, and decrees other than those covered by Section 41, where they relate to matters of public nature that are relevant to the enquiry. Such judgements, however, are not conclusive — they are relevant but rebuttable. This section has been the source of significant judicial controversy regarding the weight to be accorded to civil findings in criminal trials and vice versa.

### **2.4 Section 43 — Judgements, Orders or Decrees Other than Those Mentioned in Sections 40, 41 and 42**

Section 43 enacts the general rule of exclusion: judgements, orders, or decrees not falling within the preceding three sections are irrelevant unless they are themselves facts in issue or relevant facts. This provision reflects the fundamental evidentiary principle that the existence of a prior finding of fact by another tribunal does not, *ipso facto*, make that finding admissible as evidence of the fact found in a subsequent proceeding. The section thus preserves the independence of tribunals while recognising limited exceptions for matters of public nature.

### **2.5 Section 44 — Fraud or Collusion in Obtaining Judgement or Incompetency of Court**

Section 44 provides a safety valve: any party may show that a judgement, admissible under the preceding sections, was obtained by fraud or collusion, or was delivered by a court not competent to deliver it. This provision ensures that the rule of relevancy does not become a tool for perpetuating injustice. In the landmark case of *Satyadhyan Ghosal v. Deorajin Debi*, AIR 1960 SC 941, the Court held that a party cannot impeach a decree on grounds of fraud unless there was extrinsic fraud — fraud going to the jurisdiction of the court — as distinct from intrinsic fraud that could have been pleaded before the court that delivered the judgement.

## **III. RELEVANCY OF PREVIOUS JUDGEMENTS IN CIVIL PROCEEDINGS**

### **3.1 Res Judicata and its Interface with Section 40**

The doctrine of *res judicata*, codified in Section 11 CPC, operates as a rule of conclusiveness: where a matter has been directly and substantially in issue in a former suit between the same parties litigating under the same title, and has been heard and finally decided by a court competent to try the subsequent suit, the prior decision operates as an absolute bar



to re-litigation. Section 40 of the Evidence Act, read with Section 11 CPC, makes the existence of such a decree not merely relevant but determinative.

In *Satyadhyan Ghosal* (supra), the Supreme Court expounded the theoretical basis of *res judicata* as resting upon public policy and the maxim *interest reipublicae ut sit finis litium* (it is in the interest of the state that there should be an end to litigation). The essential conditions are: (i) the former suit must have been decided on merits; (ii) the matter must have been directly and substantially in issue; (iii) the parties must be the same or litigating under the same title; (iv) the court must have been competent to try the subsequent suit.

### **3.2 Constructive Res Judicata**

An important extension is constructive *res judicata* under Explanation IV to Section 11 CPC. Any ground of attack or defence which ought to have been, but was not, raised in the former suit is deemed to have been a matter directly and substantially in issue therein. In *Workmen v. Board of Trustees, Cochin Port Trust*, AIR 1978 SC 1283, the Court held that constructive *res judicata* is equally a rule of evidence in that it renders the prior proceedings conclusive not only as to what was decided but as to what should have been decided.

### **3.3 Issue Estoppel in Civil Law**

Issue estoppel differs from *res judicata* in that it bars re-litigation of a specific issue rather than the entire cause of action. The conditions for issue estoppel, as stated in *Amalgamated Investment and Property Co. Ltd. v. Texas Commerce International Bank Ltd.* [1982] QB 84 and adopted in Indian jurisprudence, are: (i) a final and conclusive judgement on the merits; (ii) a common party; (iii) the issue must have been actually decided; and (iv) the issue must be identical in the two proceedings.

In *Gulam Abbas v. State of U.P.*, AIR 1981 SC 2198, the Supreme Court applied issue estoppel in a civil context, holding that where a specific factual finding had been recorded by a competent court of first instance and not disturbed in appeal, neither party could re-open that finding in collateral proceedings.

### **3.4 Admission of Foreign Judgements in Civil Proceedings**

Section 13 CPC renders foreign judgements conclusive as to any matter directly adjudicated upon between the same parties under the same title, except in specified circumstances (lack of competent jurisdiction, non-compliance with international law, fraud, breach of natural justice, or repugnancy to Indian law). The interplay between Section 13 CPC and Sections 40–42 of the Evidence Act has been addressed in few High Court decisions. The Bombay High Court in *Narsimha Rao v. Usha*, 1991 (2) BomCR 412, held that a foreign divorce decree, being in *rem* in nature, falls within the purview of Section 41 of the Evidence Act and is to be treated as conclusive evidence of the dissolution of marriage.

## **IV. RELEVANCY OF PREVIOUS JUDGEMENTS IN CRIMINAL PROCEEDINGS**

### **4.1 The Constitutional Dimension: Article 20(2)**

Article 20(2) of the Constitution of India guarantees protection against double jeopardy: no person shall be prosecuted and punished for the same offence more than once. Section 300 of the CrPC (now Section 337 of BNSS, 2023) operationalises this guarantee at the statutory level. A previous acquittal or conviction is relevant not merely as evidence but as a jurisdictional bar, engaging Section 40 of the Evidence Act.

In *Kolla Veera Raghav Rao v. Gorantla Venkateswara Rao*, AIR 2011 SC 340, the Court held that the protection under Section 300 CrPC is wider than Article 20(2) inasmuch as it protects against a second trial even where no punishment was awarded in the first. The prior acquittal, once proved as a relevant fact under Section 40, extinguishes the court's jurisdiction to try the accused again for the same offence.

### **4.2 Issue Estoppel in Criminal Proceedings**

The doctrine of issue estoppel in criminal law was authoritatively expounded in *Pritam Singh v. State of Punjab*, AIR 1956 SC 415, where the Court held that where an issue of fact has been decided in favour of an accused at one stage of the criminal proceedings, the same issue cannot be reopened at a subsequent stage. This principle was elaborated in *Manipur Administration v. Thokchom Bira Singh*, AIR 1965 SC 87, where the Court traced the doctrine to *Connelly v.*



Director of Public Prosecutions [1964] AC 1254 (HL) and held that it operates as a rule of evidence preventing re-litigation of specific factual issues, distinct from the broader rule of *autrefois acquit*.

*"The doctrine of issue estoppel prevents the prosecution from leading evidence to establish a fact which has been solemnly and conclusively determined by a jury in favour of the prisoner."* — Lord MacDermott in *Connelly v. DPP* [1964] AC 1254.

#### **4.3 Interaction of Civil and Criminal Judgements**

The question of whether a civil court's finding of fact binds a criminal court, or vice versa, has generated significant jurisprudential controversy. The general rule, derived from the different standards of proof applicable in civil (balance of probabilities) and criminal proceedings (beyond reasonable doubt), is that a civil finding does not bind a criminal court and an acquittal in criminal proceedings does not preclude a civil suit.

In *Gurbakhsh Singh Sibia v. State of Punjab*, AIR 1980 SC 1632, the Court affirmed that evidence admissible under Section 43 of the Evidence Act in civil proceedings may have very limited weight in criminal proceedings because the finding was arrived at on a lower standard of proof. Conversely, a criminal conviction may be highly relevant in subsequent civil proceedings as it establishes the fact of guilt to the higher standard.

The Supreme Court in *K.G. Premsit v. Irulappan*, AIR 2000 SC 1401, held that a finding of fraud recorded in civil proceedings under the lower standard of preponderance of evidence cannot constitute estoppel in criminal proceedings. However, the judgment noted that such a finding is admissible under Section 42 as a judgement relating to a matter of public nature, leaving it to the court to determine its evidential weight.

#### **4.4 Previous Convictions as Aggravating Circumstances**

Section 75 IPC (now Section 83 BNS, 2023) expressly provides that previous convictions are relevant for the purpose of enhanced punishment. For the purpose of proving a previous conviction, a certified copy of the sentence is sufficient evidence. Such proof engages Section 40 of the Evidence Act insofar as it demonstrates a final judicial determination of guilt, which the court in the subsequent proceedings is not permitted to re-examine.

In *State of Maharashtra v. Bhaurao Punjabrao Gawande*, AIR 2008 SC 1705, the Court held that the proof of a previous conviction for invoking Section 75 IPC requires not merely evidence of the earlier sentence but evidence establishing that the same accused was the person convicted. The accused is entitled to challenge the identity between themselves and the person previously convicted, but the correctness of the previous conviction cannot be collaterally attacked.

## **V. COMPARATIVE ANALYSIS**

### **5.1 English Law**

English law on the relevancy of previous judgements has evolved substantially through common law and statute. The Civil Evidence Act, 1968, rendered convictions in criminal proceedings admissible in subsequent civil proceedings as evidence that the convicted person committed the offence (Section 11). The Civil Evidence Act, 1995, further liberalised the admission of previous statements and findings. The House of Lords in *Hunter v. Chief Constable of West Midlands Police* [1982] AC 529 enunciated the principle of abuse of process as a basis for excluding collateral challenges to previous judgements, going beyond the technical requirements of *res judicata* and *issue estoppel*.

### **5.2 American Law**

Under the Federal Rules of Evidence (FRE), Rule 803(22) creates a hearsay exception for judgements of previous conviction for crimes punishable by death or imprisonment for more than one year, when offered as evidence of any fact essential to the judgement. The rule is narrower than its English counterpart in that it applies only to convictions, not to acquittals (which are inadmissible to prove non-commission of the act: *Dowling v. United States*, 493 U.S. 342 (1990)).

The doctrine of offensive non-mutual collateral estoppel, recognised in *Parklane Hosiery Co. v. Shore*, 439 U.S. 322 (1979), permits a party who was not bound by the prior proceeding to use an earlier judgment against a party who was. This doctrine has no direct counterpart in Indian or English law and represents a significant divergence in the treatment of prior judgements.



### 5.3 Comparative Table

Doctrine / Rule	India (Evidence Act)	England (CEA 1968/1995)	USA (FRE)
Civil conviction in civil court	Relevant rebuttable (S.42);	Admissible; rebuttable (S.11 CEA 1968)	Admissible under FRE 803(22)
Criminal conviction in civil case	Relevant rebuttable (S.42);	Conclusive (S.11 CEA 1968)	Admissible; not conclusive
Acquittal in subsequent civil case	Not conclusive; S.43 exclusion	Not admissible to prove innocence	Generally inadmissible (Dowling)
In rem judgements	Conclusive (S.41)	Conclusive	Conclusive
Issue estoppel	Recognised (Pritam Singh)	Recognised (Arnold v. NWR)	Recognised (Parklane Hosiery)
Foreign judgements	Sections 13-14 CPC	Common law + statutes	Comity doctrine

## VI. CRITICAL ANALYSIS AND REFORM PROPOSALS

### 6.1 The Problem of Quasi-Judicial Findings

A significant lacuna in the current framework is the treatment of findings by quasi-judicial tribunals such as the National Company Law Tribunal, Competition Commission of India, Income Tax Appellate Tribunal, and Consumer Dispute Redressal Commissions. These bodies exercise adjudicatory functions and their findings are often determinative of facts that are subsequently in issue before civil or criminal courts. The existing provisions of Sections 40–44 do not explicitly address the admissibility of quasi-judicial findings.

The Supreme Court, in *D.R. Venkatachalam v. Transport Commissioner*, AIR 1977 SC 842, held that a finding by an administrative authority does not operate as *res judicata* in subsequent judicial proceedings. However, the Court in *Deoraj v. State of Maharashtra*, AIR 2004 SC 1951, recognised that such findings may be admissible as evidence of facts of public nature under Section 42. This ambiguity requires legislative clarification.

### 6.2 Class Action Estoppel

The Consumer Protection Act, 2019 and the Competition Act, 2002 permit representative or class actions. Where a finding is made in such proceedings, the question arises whether persons who were members of the class but did not actively participate in the litigation are bound by or may rely upon that finding. Neither the Evidence Act nor the relevant procedural codes address this issue adequately. The authors recommend the insertion of a specific provision in the Evidence Act modelled on Rule 23(c)(3) of the US Federal Rules of Civil Procedure, which provides for the binding effect of class action judgements.

### 6.3 Digital and Arbitral Proceedings

The proliferation of online dispute resolution and domestic arbitration raises new questions about the admissibility of arbitral awards as previous judgements. Section 17 of the Arbitration and Conciliation Act, 1996 treats interim awards as orders of the court, but final awards occupy an uncertain position in the evidentiary scheme. The authors recommend that Section 41 be amended to explicitly include arbitral awards made by arbitral tribunals seated in India, at least to the extent they constitute final determinations of the legal rights of parties.

### 6.4 Reform of Section 43

Section 43 as currently drafted creates an overly rigid exclusionary rule. The authors propose that Section 43 be amended to permit the admission of prior judgements as evidence of findings of fact where the court is satisfied that the prior proceedings provided adequate opportunity for the parties to be heard, the standard of proof was not lower than



the standard applicable in the current proceedings, and the factual issue was directly and substantially in issue in the prior proceedings. The weight to be accorded to such evidence should remain with the court, preserving judicial discretion while removing the blanket exclusion.

## VII. CONCLUSION

The relevancy of previous judgements in civil and criminal proceedings is a doctrine of fundamental importance to the architecture of justice. The Indian Evidence Act, 1872, through Sections 40 to 44, provides a statutory framework that reflects the common law understanding of this doctrine. However, nearly 150 years after its enactment, the framework requires modernisation to address quasi-judicial findings, class action estoppel, arbitral awards, and the increasingly porous boundaries between civil and criminal proceedings.

The comparative analysis with English and American law reveals that India has, in some respects, a more cautious approach to the admissibility of prior judgements — an approach that preserves judicial independence but at the cost of consistency and efficiency. The proposed reforms seek to strike a more appropriate balance by expanding the scope of admissibility while preserving the court's discretion to determine the weight to be accorded to prior determinations.

Ultimately, the relevancy of previous judgements is not merely a question of evidence law but a reflection of the law's broader commitment to the values of certainty, finality, and the equitable treatment of litigants. A reformed framework that respects these values while keeping pace with institutional and technological change is both necessary and overdue.

## FOOTNOTES

- 1 Indian Evidence Act, 1872 (Act 1 of 1872), ss. 40–44.
- 2 Code of Civil Procedure, 1908 (Act 5 of 1908), s. 11.
- 3 Code of Criminal Procedure, 1973, s. 300; now Bharatiya Nagarik Suraksha Sanhita, 2023, s. 337.
- 4 R.N. Gosain v. Yashpal Dhingra, AIR 1993 SC 352, per Hidayatullah CJ.
- 5 Daryao v. State of U.P., AIR 1961 SC 1457 (Constitution Bench).
- 6 Satyadhyan Ghosal v. Deorajin Debi, AIR 1960 SC 941.
- 7 Workmen v. Board of Trustees, Cochin Port Trust, AIR 1978 SC 1283.
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