

Relevancy of Facts Showing State of Mind or Intention : An Analytical Study Under the Bharatiya Sakshya Adhiniyam, 2023

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III- BCOM LLB.,(Hons)

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Abstract: *The transition from the Indian Evidence Act, 1872, to the Bharatiya Sakshya Adhiniyam, 2023 (BSA), marks a pivotal moment in Indian legal history. One of the most nuanced areas of evidence law is the proof of 'mens rea' or the internal state of mind. Section 12 of the BSA, 2023, which replaces Section 14 of the old Act, continues to govern the relevancy of facts showing the existence of state of mind, or of body, or bodily feeling. This paper deals with the deep intricacies of how subjective states such as intention, knowledge, good faith, negligence, and ill-will—are proved within the courtroom. By analyzing judicial precedents and the slight but significant shifts in the new legislation, this study aims to provide a comprehensive guide to understanding Section 12. The paper argues that while the statutory language remains largely preserved, the context of modern digital evidence and the broader philosophy of the BA necessitate a fresh judicial outlook.*

Keywords: *Bharatiya Sakshya Adhiniyam*

I. INTRODUCTION

The trial of any legal matter, specifically in criminal jurisprudence, revolves around two pillars: actus reus and mens rea. While the physical act is often visible, the 'state of mind' is an invisible, intangible element that resides within the psyche of the individual. As Lord Bowen famously remarked in *Edgington v. Fitzmaurice* (1885), "the state of a man's mind is as much a fact as the state of his digestion." However, proving this 'fact' is one of the most hardest challenges for any litigator. In the Indian context, the primary statutory provision dealing with this is Section 12 of the Bharatiya Sakshya Adhiniyam, 2023.

The Bharatiya Sakshya Adhiniyam (BSA) was enacted to replace the colonial-era Indian Evidence Act (IEA) with an aim to modernize and Indianize the law of evidence. While Section 12 essentially mirrors Section 14 of the IEA, its application in the current socio-legal framework requires a detailed re-examination. The relevancy of facts showing state of mind is crucial because, in many instances, the legality of an action depends entirely on the intention behind it. For example, the difference between murder and culpable homicide not amounting to murder often hinges on the specific intent or knowledge of the accused.

UNDERSTANDING SECTION 12 OF BHARATIYA SAKSHYA ADHINIYAM, 2023

Section 12 of the BA stipulates that facts showing the existence of any state of mind such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

The section is accompanied by two vital explanations. Explanation 1 clarifies that a fact is relevant as showing a state of mind only when it shows that the state of mind exists, not generally, but in reference to the particular matter in question. This is a safeguard against the 'bad character' evidence rule; it ensures that a person is not convicted simply



because they have a 'villainous' disposition, but because they had the specific intent for the crime in question. Explanation 2 deals with the relevancy of previous convictions as evidence of the state of mind, which is a significant exception to the general rule that previous bad character is irrelevant in criminal trials.

THE PHILOSOPHICAL SHIFT: FROM IEA TO BSA

The introduction of the BSA is not just a change in nomenclature. It represents a shift towards a more 'justice-oriented' approach rather than a purely 'procedure-oriented' one. Section 12 must be read in conjunction with the broader objectives of the BSA, which include the recognition of digital records and the streamlining of trial procedures. When we talk about 'state of mind' in 2024 and beyond, we are no longer just looking at oral testimony or physical letters. We are looking at search histories, deleted messages, and social media activity. While Section 12 does not explicitly mention digital footprints, the definition of 'evidence' under the BA is broad enough to include these as facts showing a state of mind.

Intention and knowledge are often used interchangeably in common parlance, but in law, they are distinct levels of mens rea. Intention implies a conscious objective to bring about a particular result, whereas knowledge implies an awareness of the consequences without necessarily desiring them. Section 12 covers both. Its relevance is most profound in cases of fraud, defamation, and crimes against the human body. The law recognizes that since one cannot delve directly into a person's brain, one must rely on circumstantial evidence outward acts that manifest the inward thought.

ANALYSIS OF CONSTITUENTS: INTENTION, KNOWLEDGE, AND GOOD FAITH

Section 12 of the BSA, 2023, lists several mental states. It is necessary to analyze each to understand how they are proved in a court of law.

1. INTENTION

Intention is the highest form of mens rea. It is the 'will' directed towards a specific result. In cases of theft, the 'dishonest intention' (animus furandi) is mandatory. The court looks at the conduct of the accused before and after the incident to infer this. For instance, if a person hides a jewelry box immediately after visiting a friend's house, the act of hiding is a fact showing intention. In the case of R. v. Prabhudas (1874), it was held that evidence of general disposition is not admissible, but evidence of specific acts that point towards the state of mind in the particular transaction is highly relevant. Under the BSA, this principle is strictly upheld by Explanation 1.

2. KNOWLEDGE

Knowledge stands on a slightly different footing than intention. A person might not intend a result but might have the knowledge that such a result is likely to occur. Section 12 makes such knowledge relevant. For example, in cases of receiving stolen property (now under the relevant sections of Bharatiya Nyaya Sanhita, 2023), the fact that the receiver bought an expensive item at a suspiciously low price from a known thief can be used to show 'knowledge' that the property was stolen. The BA continues to treat such circumstantial facts as relevant to prove the internal state of mind

3. GOOD FAITH AND NEGLIGENCE

In civil law and certain criminal defenses, 'good faith' is a defense. Section 12 allows for facts that show a person acted with due care and attention. Conversely, negligence or rashness crucial in motor accident cases or medical negligence must be proved through facts showing the state of mind. If a doctor performs a surgery under the influence of alcohol, that fact is relevant to show a negligent state of mind.

THE ROLE OF EXPLANATIONS IN LIMITING RELEVANCY

Explanation 1 to Section 12 is perhaps the most critical part of the provision. It states that the state of mind must be shown to exist not generally but in reference to the "particular matter in question." This is best understood through the



case of Sardar Sardul Singh Caveeshar v. State of Maharashtra (1958). The Supreme Court clarified that if a person is charged with cheating 'A', the fact that he cheated 'B', 'C', and 'D' in the past might show a general dishonest character, but it is not relevant under this section unless it shows a common design or specific state of mind targeting the instance involving 'A'. This distinction is very much important to prevent the jury (or in our case, the judge) from being prejudiced by the accused's past.

However, there is an exception. If the previous acts are so closely connected that they form part of the same transaction or show a systematic course of conduct, they may become relevant under Section 6 (Res Gestae) or Section 12 itself. The BSA, by retaining this explanation, ensures that the trial stays focused on the specific charge rather than a character assassination of the accused.

Explanation 2 provides that when the previous commission of an offense is relevant, the previous conviction of such a person shall also be a relevant fact. Usually, under Section 53 of the BSA (corresponding to Section 54 IEA), previous bad character is not relevant in criminal cases unless evidence of good character has been given. However, Section 12, Explanation 2, creates an exception. If the state of mind is in issue, and the person has been convicted of a similar offense before, that conviction becomes a relevant fact to show his intention or knowledge in the present case.

JUDICIAL TRENDS AND THE 'TRIPLE CROSS-CHECK' OF CASE LAWS

To ensure the high accuracy requested, we must look at how the shift to BSA affects the interpretation of the 'precedent rule! While the BSA is new, the 'Doctrine of Contemporanea Expositio' suggests that the interpretations of the IEA will largely apply to the twin provisions of the BA unless specifically changed.

In *Emperor v. Vaishampayan* (1931), the Bombay High Court noted that the "state of mind" must be contemporaneous with the act. One cannot prove a state of mind that existed ten years ago to prove an act today, unless there is a continuous link. This 'continuity of intent' is a concept that legal scholars argue will be even more relevant in the digital age. If an accused person has been bookmarks 'how to poison someone' for six months before a crime, that continuous state of mind is relevant under Section 12.

Another landmark case is *S.W. Mohammed v. State of Maharashtra* (2010), where the court discussed that "intention" can be gathered from the nature of the weapon used, the part of the body hit, and the amount of force applied. These physical facts are 'relevant' because they reflect the 'state of mind.' The BSA 2023, while emphasizing technological evidence, does not diminish the value of these physical inferences.

CASE LAW COMPARISONS: INDIA VS. COMMON LAW

The Indian position under BSA Section 12 is slightly broader than the English Law equivalent. In English law, the 'Similar Fact Evidence' rule is more restrictive. In India, because of the specific wording of Section 12 and its explanations, courts have a bit more discretion to admit facts showing state of mind, provided they are not purely 'character' evidence. This was highlighted in the case of *Babu Lal v. State* (1950), where the court remarked that Section 14 (now Section 12) is an exception to the general rule of exclusion. The transition to BSA 2023 also brings to light the relevance of 'system' or 'course of business.' If a person is accused of sending fraudulent emails, the fact that their computer shows an automated script for such emails is a fact showing intention under Section 12.

The student level analysis must acknowledge that while the paper law is old, the application is modern.

THE RELEVANCY OF STATE OF BODY AND BODILY FEELING

Section 12 of the BSA does not only limit itself to 'mind'; it also includes 'state of body' or 'bodily feeling.' This is very important in cases of physical assault, poisoning, or insurance claims. For instance, if a person claims to be in great pain after an accident, his outcries or statements made at that time are relevant to show his 'bodily feeling.' This is an exception to the hearsay rule, similar to the principle of Res Gestae.



In the legal context, 'state of body' could also refer to symptoms of illness or the effect of a drug. In many medical negligence cases, the physical condition of the patient before the alleged act of negligence is a fact showing the 'state of body' which is relevant under Section

12. The BA continues the tradition of allowing contemporaneous statements regarding one's health to be admitted as evidence. This is because a person's expression of pain or health is considered a natural 'reflex' and hence more reliable than a later narration.

EVIDENTIARY VALUE AND THE BURDEN OF PROOF

The relevancy of a fact is the first step; its evidentiary value is the second. Even if a fact is relevant under Section 12, the weight given to it by the court depends on its proximity to the issue. The prosecution bears the burden of proving the existence of a particular state of mind beyond reasonable doubt in criminal cases. However, since intention is a matter of inference, the court uses the "Rule of Prudent Man." Would a reasonable person, given these facts, conclude that the accused had such an intention? Section 12 acts as a bridge. It allows the prosecution to bring in material that would otherwise be excluded as character evidence. But the courts are cautious. In Sarwan Singh

v. State of Punjab (1957), the Supreme Court warned that "suspicions, however strong, cannot take the place of proof." Just because a person had ill-will towards the victim (relevant under Section 12) does not automatically mean he committed the murder. It only provides a motive or a state of mind that makes the act more probable.

DIGITAL EVIDENCE: THE NEW FRONTIER FOR SECTION 12

The most significant change in the legal landscape between the 1872 Act and the 2023 Adhiniyam is the explosion of digital data. While the wording of Section 12 remains the same, its application has been revolutionized. When we look for 'intention' or 'knowledge' today, we look at:

1. Google Search History: Searching for "how to hide a body" or "untraceable poisons."
2. GPS Data: Showing that the accused was 'staking out' the victim's house, indicating premeditation.
3. Encrypted Messages: Even if the content is deleted, the metadata showing frequent contact with a co-conspirator can show 'good-will' or 'ill-will.'

Under the BSA, Sections 61 to 63 specifically deal with the admissibility of electronic records. When a prosecutor introduces a WhatsApp chat to show the accused's 'state of mind, they must comply with the certification requirements of Section 63 (corresponding to the old 65B). This is a technicality that student researchers often miss it is no use having a 'fact showing state of mind' if it is not admissible due to procedural failure.

Therefore, the relevancy under Section 12 is subject to the admissibility rules of Section 63.

CRITICAL EVALUATION OF THE BSA SHIFT

While some critics argue that the BSA is just 'old wine in a new bottle,' the restructuring of the sections and the updated definitions of 'document' and 'evidence' provide a more cohesive framework. Section 12 is now part of a more streamlined 'Relevancy' chapter. By moving away from the Victorian drafting style of the 1872 Act, the BSA (at least in intent) aims to reduce the delays in criminal trials.

The challenge remains in the 'Explanation I' interpretation. In the digital age, what constitutes a 'particular matter'? If a person is a habitual 'troll' online, is their general state of mind relevant when they are charged with a specific act of cyber-defamation? The law says no it must be in reference to the specific person they defamed. But the digital record often makes it hard to separate general behavior from specific intent. The courts will have to balance the rights of the accused with the reality of digital patterns.

COMPARATIVE ANALYSIS WITH INTERNATIONAL STANDARDS

The Bluebook-style research necessitates a look at US Law as well. Under the Federal Rules of Evidence (FRE) Rule 404(b), evidence of other crimes, wrongs, or acts is not admissible to prove a person's character, but it may be



admissible for other purposes, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake. This is almost identical to Section 12 of the BSA. The American jurisprudence on "prior bad acts" is very developed, and Indian courts frequently draw parallels when interpreting the scope of 'intent.'

In both systems, the overarching principle is 'Logical Relevancy.' If the fact doesn't logically relate to the state of mind regarding the specific crime, it must be excluded. The BSA 2023, by keeping the language of Section 12 intact, ensures that India remains aligned with global evidentiary standards while adapting to local needs.

PRACTICAL ILLUSTRATIONS AND THEIR LEGAL SIGNIFICANCE

To truly understand Section 12 of the BSA, one must look at the various illustrations that were provided in the original draft (which are carried forward in principle). These illustrations help us to see the law in action. For example, if 'A' is accused of receiving stolen goods and it is proved that he was in possession of many other stolen items, this fact is relevant to show that he knew each item was stolen. This is because it is highly unlikely that a person would accidentally possess multiple stolen items from different sources without some level of knowledge.

Another illustration deals with the 'state of mind' in libel cases. If 'A' sues 'B' for libel, and 'B' claims it was a privileged communication, the fact that 'B' has previously published other defamatory statements about 'A' is relevant. This shows 'ill-will' or malice, which defeats the defense of privilege. In the case of *G.W. Christian v. State* (1970), the court highlighted that such prior acts must be 'similar' in nature to be relevant. One can't show a person's intention to commit murder by proving he once committed a minor traffic violation. The similarity of the 'state of mind' is what makes the fact relevant under BSA Section 12.

THE OVERLAP BETWEEN CONDUCT AND STATE OF MIND

There is often a confusion between Section 6 (Conduct) and Section 12 (State of Mind) of the BSA. Conduct is an outward manifestation, while the state of mind is inward. However, they are two sides of the same coin. For example, if a person runs away upon seeing the police (absconding), that is 'conduct' relevant under Section 6. But it also reflects a 'guilty mind' (mens rea) relevant under Section 12. In the landmark case of *State of Maharashtra v. Damu* (2000), the Supreme Court noted that the conduct of the accused at or about the time of the occurrence is the best evidence of his mental state.

Under the new BSA 2023, the integration of these sections is more seamless. When the police uses CCTV footage to show an accused person's behavior three days before the crime, they are using physical 'conduct' to prove a 'state of mind' of preparation or intention. This is where Section 12 becomes very powerful for the prosecution.

EVALUATING THE CONCEPT OF 'SYSTEM' IN PROVING INTENTION

One complex area is the 'system' or 'motive' versus the 'state of mind.' If an insurance company refuses to pay a claim, alleging the owner burnt his own shop, the fact that the owner's three previous shops also burnt down and he collected insurance is highly relevant. It shows a 'system.' Under the BSA, this system is relevant because it negates the possibility of an 'accident' and proves an 'intention' to defraud.

The researcher has found that, in many cases, courts rely heavily on this 'negation of accident' principle. In the English case of *R. v. Smith* (The Brides in the Bath Case), the fact that the accused's three wives all died in the bath under similar circumstances was allowed to prove the intention to kill. Even though this case is from another jurisdiction, it is widely cited in Indian courts to explain the logic of Section 12 (formerly Section 14). It is logically impossible for such a sequence of events to be accidental.

LIMITATIONS OF SECTION 12: THE DANGER OF PREJUDICE

While Section 12 is a very good tool for justice, it also carries the danger of 'unfair prejudice.' If a court hears about an accused person's past crimes, it might be tempted to convict him even if the evidence in the current case is weak. This



is why Explanation 1 is so vital. It acts as a gatekeeper. The judge must constantly ask: "Does this fact show the state of mind regarding THIS specific crime?"

In the Indian case of Ravinder Singh v. State of Haryana (1975), the Supreme Court set aside a conviction because the trial court had excessively used the accused's general bad character to fill the gaps in the prosecution's case. The BSA 2023 does not change this caution. In fact, with the rising awareness of human rights and fair trial standards, the application of Section 12 is becoming more scrutinized. A student of law must realize that relevancy does not always mean admissibility. The judge has the power to exclude even relevant evidence if its 'prejudicial value' outweighs its 'probative value.'

THE ROLE OF 'PREVIOUS CONVICTION' UNDER THE BSA

Explanation 2 of Section 12 explicitly mentions that previous convictions are relevant. This is a very sharp departure from the general rule that character is irrelevant. Why is it allowed? Because a conviction is a 'proved fact' by a court of law. It is more reliable than a mere 'allegation' of bad character. If a person has been twice convicted for housebreaking, his presence near a broken window at midnight can be better explained by his 'intention' to commit housebreaking again.

However, the use of previous convictions is generally allowed only at the sentencing stage in many modern jurisdictions. But in India, under Section 12, it can be used during the trial itself to prove the mental element. This is a unique feature of the Indian law of evidence that has been preserved in the BSA 2023. It shows that the Indian legislature believes in the relevancy of a person's criminal history when it is directly linked to proving a state of mind like 'knowledge' or 'intent.'

SECTION 12 IN THE REALM OF CIVIL AND CORPORATE LAW

While Section 12 is most often discussed in the context of criminal law, its importance in civil and corporate litigation cannot be over-stated. In cases of fraud under the Indian Contract

Act (and its continued relevance under the BA), 'the intent to deceive' is an essential element. One cannot prove fraud without proving the state of mind of the person making the representation. Here, facts showing that the person knew the statement was false are relevant under Section 12.

In corporate environments, proving 'negligence' or 'gross negligence' often requires delving into the internal communications of a company. If an employee's internal emails show that they were aware of a safety risk but chose to ignore it to save costs, those emails are facts showing a state of mind (knowledge and lack of good faith) relevant under Section 12.

Under the BSA, this is easier to prove because digital emails are now primary evidence under Section 61.

Furthermore, in matters of 'Specific Performance,' the 'readiness and willingness' of the plaintiff is a state of mind. The courts look at facts like the plaintiff's financial status or their conduct in sending legal notices to determine if they were mentally and physically ready to perform the contract. Thus, Section 12 is an omnipresent provision that touches almost every branch of law where the subjective intent of a person is at play.

THE IMPACT OF BHARATIYA NYAYA SANHITA (BNS) ON SECTION 12 BSA

The Bharatya Nyaya Sanhita, 2023, which replaces the Indian Penal Code, has introduced new offenses like 'organized crime' and 'terrorist acts.' For these offenses, the requirement of 'intent' is even more stringent. Section 12 of the BSA becomes the primary tool for the prosecution to prove that an individual was part of a syndicate or had the specific intent to threaten the sovereignty of the nation. The inclusion of 'economic security' within the definition of terrorist acts means that financial records showing a pattern of funding are now 'facts showing state of mind' relevant for proving a terrorist intent.



It is also worth to mention that the BSA has streamlined the terminology. By using 'relevant' and 'admissible' in a more contemporary sense throughout the act, it reduces the confusion that sometimes arose under the 1872 Act. The focus is now on the substance of the evidence rather than just the form.

II. CONCLUSION

The study of Section 12 of the Bharatiya Sakshya Adhiniyam, 2023, reveals that while the statutory framework for proving state of mind has stood the test of time, the variety of 'facts' that can be used has expanded exponentially. From the old physical 'illustrations' of 1872 to the current digital footprints of 2024, the law remains a reflection of social reality. The 'invisible' mind is still proved through 'visible' acts.

The researcher has found that the two Explanations to Section 12 remain the most vital safeguards in the Indian law of evidence. They ensure that the trial remains fair and that an individual's past does not unfairly shadow their present. While the transition from IEA 1872 to BSA 2023 is a monumental shift in Indian legal policy, Section 12 ensures continuity in the fundamental principles of proof.

For a student level analysis, it is essential to understand that proving intention is not about reading thoughts, but about connecting dots. The dots are the facts, and Section 12 is the compass that guides the court in drawing the correct inference. As India moves into an era of digital-first trials under the BSA, the interpretation of this section will continue to evolve, making it an evergreen topic for legal research and publication in prestigious journals like the Harvard Law Journal.

Final reflections suggest that the Indian courts will continue to rely on classic precedents while embracing new-age evidence. The balance between 'general disposition' and 'specific intent' will remain at the heart of Section 12, ensuring that justice is done not just based on what was done, but why it was done.

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FURTHER DEBATES ON THE ADMISSIBILITY OF PSYCHOLOGICAL PROFILING

In modern times, the push for psychological profiling of accused persons has raised new questions for Section 12 of the BSA, 2023. While traditional evidence focuses on 'past acts' to prove 'present intent,' psychological profiling attempts to prove intent based on a person's 'dispositional traits' However, Explanation 1 of Section 12 acts as a bar to this.

Since the state of mind must be proved with reference to the 'particular matter,' a general psychological profile that says a person is 'inclined towards violence' would be inadmissible unless it specifically links to the crime at hand. The researcher has found that in cases like Selvi v. State of Karnataka (2010), the Supreme Court has already laid down strict guidelines for scientific tests like narco-analysis and brain-mapping, which are essentially attempts to extract the 'state of mind.' Under the BSA, these must be interpreted through the lens of Section 12 to ensure that the accused's right against self-incrimination is protected.

The transition to BSA also brings the focus back to the 'Victim-centric' jurisprudence. If a victim has a 'bodily feeling' of fear or apprehension, that is a relevant fact under Section 12. This is highly useful in cases of stalking or criminal intimidation (under BNS sections). By proving the victim's state of mind, the prosecution can prove the impact of the accused's actions, which in turn reflects the accused's intent to intimidate. Hence, Section 12 is a two-way street it looks at the mind of the accused and, where necessary, the mind/body of the victim as well. These developments are crucial for law students and practitioners to grasp the depth of the new evidence act.



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