

Accomplice Testimony and the Rule of Corroboration Under the Bharatiya Sakshya Adhiniyam, 2023: A Critical Study

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Abstract: *The law relating to accomplice testimony has historically occupied a controversial position within criminal jurisprudence. While accomplices are often crucial witnesses in uncovering complex crimes, their credibility is inherently suspect due to their participation in the offence. The Bharatiya Sakshya Adhiniyam, 2023 (BSA), replacing the Indian Evidence Act, 1872, introduces a significant doctrinal shift by modifying the rule governing corroboration of accomplice testimony. Section 138 of the BSA explicitly mandates that a conviction is not illegal if based on corroborated testimony of an accomplice, marking a departure from the earlier allowance of convictions based on uncorroborated testimony. This paper critically examines the nature, necessity, scope, and implications of corroboration under the new regime. It evaluates whether the shift transforms the rule from one of prudence to a rule of law and analyses its impact on criminal justice administration in India.*

Keywords: Accomplice, Corroboration, Bharatiya Sakshya Adhiniyam, Evidence Law, Criminal Justice, Witness Credibility, Rule of Prudence

I. INTRODUCTION

The administration of criminal justice heavily relies on witness testimony. Among various categories of witnesses, accomplices occupy a unique and contentious position. An accomplice is a participant in the commission of a crime who later testifies against the accused. Their testimony can be decisive, particularly in cases involving conspiracy, organized crime, or complex offences.

However, the credibility of accomplice evidence has always been treated with caution. The central question is whether a conviction should rest upon testimony given by a person who has himself participated in the crime.

Under the Bharatiya Sakshya Adhiniyam, 2023, the law governing accomplice testimony has undergone a notable transformation, particularly in relation to the rule of corroboration.

2. Meaning and Nature of Accomplice

An accomplice is a person who is directly or indirectly involved in the commission of an offence. This includes:

- Principal offenders
- Abettors
- Conspirators
- Accessories before or after the fact

The BSA does not define “accomplice” explicitly but retains its common law meaning.

An accomplice may later turn into an approver (a prosecution witness granted pardon in exchange for testimony).



3. Legal Framework under BSA, 2023

3.1 Section 138 – Accomplice

Section 138 provides:

- An accomplice is a competent witness
- A conviction is not illegal if based on corroborated testimony

This provision marks a significant shift from the earlier law.

4. Historical Evolution

4.1 Under Indian Evidence Act, 1872

- Section 133: Allowed conviction based on uncorroborated accomplice testimony
- Section 114 Illustration (b): Suggested accomplice evidence is unreliable unless corroborated

This created a contradiction:

- Legally permissible
- Practically discouraged

Thus, corroboration was treated as a rule of prudence, not law.

4.2 Change under BSA, 2023

The BSA replaces “uncorroborated” with “corroborated”, thereby:

- Removing ambiguity
- Strengthening reliability requirements
- Potentially making corroboration mandatory

5. Concept of Corroboration

Corroboration means independent evidence that supports and confirms other evidence

It is:

- Not independent proof of the entire case
- But must strengthen material aspects

6. Rule of Corroboration

6.1 Nature of Rule

Under the BSA:

- Corroboration appears to be a rule of law
- Courts must ensure independent supporting evidence

6.2 Justification

The need arises because:

- Accomplices may testify to:
- Shift blame
- Gain pardon
- Reduce punishment

Thus, their testimony is inherently suspect.

7. Essentials of Valid Corroboration

For corroboration to be valid, it must:

1. Be independent evidence
2. Relate to material particulars



3. Connect the accused with the crime
4. Support the truthfulness of the accomplice

Corroboration need not confirm every detail but must implicate the accused meaningfully

8. Types of Corroboration

8.1 Direct Corroboration

- Eyewitness testimony
- CCTV evidence

8.2 Circumstantial Corroboration

- Recovery of weapon
- Presence at crime scene

8.3 Documentary Corroboration

- Call records
- Financial transactions

9. Judicial Approach

Indian courts have historically held:

- Accomplice evidence is admissible
- But unsafe without corroboration

Key judicial principles:

- Corroboration must implicate the accused
- Mere confirmation of narrative is insufficient

10. Comparative Jurisprudence

10.1 United Kingdom

- Corroboration requirement relaxed
- Jury caution remains

10.2 United States

- Varies by state
- Some require corroboration statutorily

10.3 India (BSA 2023)

- Moves toward stricter evidentiary safeguards

11. Critical Analysis of BSA Reform

11.1 Advantages

1. Prevents wrongful convictions
2. Ensures higher evidentiary standards
3. Reduces reliance on unreliable testimony



11.2 Challenges

1. Difficulty in proving organized crimes
2. Over-dependence on corroborative evidence
3. Possible acquittals due to lack of independent proof

11.3 Rule of Law vs Rule of Prudence

The key doctrinal question:

- Earlier: Rule of prudence
- Now: Likely rule of law

This shift strengthens accused rights but may weaken prosecution efficiency.

12. Role of Approver Testimony

Approvers play a crucial role in:

- Conspiracy cases
- Terrorism cases
- Economic offences

However:

- Courts must ensure strict corroboration
- Testimony must be voluntary

13. Constitutional Perspective

The rule of corroboration aligns with:

- Article 21 (Fair Trial)
- Presumption of innocence

It ensures:

- Reliability
- Judicial caution

14. Practical Implications

14.1 For Prosecution

- Must gather independent evidence
- Cannot rely solely on accomplice

14.2 For Defence

- Can challenge lack of corroboration
- Strengthens defence strategy

15. Case-Based Illustration

Example:

- A robbery accomplice testifies
- Corroboration through:
- CCTV footage
- Recovery of stolen goods

Only then conviction is justified.



16. Interplay with Other Provisions

Relevant provisions include:

- Statements for corroboration
- Confessions
- Circumstantial evidence

Together, they form a holistic evidentiary framework.

17. International Standards

Modern criminal justice systems emphasize:

- Reliability
- Safeguards against false testimony

BSA aligns India with global standards.

18. Doctrinal Debate

Two competing views:

View 1: Strict Corroboration Necessary

- Protects accused
- Prevents misuse

View 2: Flexibility Required

- Practical challenges
- Crime detection may suffer

19. Recommendations

1. Clear judicial guidelines on corroboration
2. Training for investigators
3. Use of forensic evidence
4. Balanced interpretation

20. Conclusion

The Bharatiya Sakshya Adhiniyam, 2023 marks a significant evolution in Indian evidence law by strengthening the requirement of corroboration in accomplice testimony. By shifting from a permissive framework to a more stringent evidentiary standard, the law prioritizes fairness and reliability over prosecutorial convenience.

While this reform enhances the protection of accused persons, it also imposes greater burdens on the prosecution. The success of this framework depends on judicial interpretation and effective investigation practices.

Ultimately, the rule of corroboration serves as a critical safeguard, ensuring that justice is not compromised by unreliable testimony.

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