

RELATION BETWEEN SECTION 6 AND 32 OF EVIDENCE ACT

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ABSTRACT: *The following study paper goes through Sections 6 and 32 of the Indian Evidence Act of 1872 in great detail. The Indian Evidence Act has two parts that lay out two distinct concepts. The Indian Evidence Act of 1872 is unique in that it not only standardizes the mechanism for evidence disclosure, but it also establishes whose testimony is acceptable. Relevant Facts are facts that have a certain degree of probative force. Cause-and-effect forces can be used to judge the relevance of facts. Section 6 and Section 32 lay out two different principles. Hearsay proof is permitted under Section 6 provided specific circumstances are met, and includes acts that speak for themselves, but hearsay proof is prohibited under Section 32. Instead, in the event of the death or disability of the person who was expected to give testimony, a document or any other person concerned will be called to testify.*

KEYWORDS: *Evidence, Hearsay Proof, Permissible, Document, Death, Disability.*

INTRODUCTION

If a fact is related to another fact and is a significant element of the situation, it is considered logically relevant. A fact, on the other hand, is considered to be legally important if the law declares it to be so. Each legally relevant information is considered to be logically relevant, although logically relevant facts may or may not be legally relevant. A fact cannot be used as evidence if it is not legally relevant. The case of Ram Bihari Yadav v. State of Bihar is significant in that it clarified the concepts of relevance and admissibility. And that, despite the fact that these terms are sometimes used interchangeably, they have different legal consequences[1].

The Indian Evidence Act of 1872 has a section that is comparable to the English theory of Res Gestae. The concept indicates that facts that are not in dispute but are related to it are accepted. The concept applies to facts that are related to the same transaction. As hearsay evidence becomes allowed, this section is an exception to the general norm. However, in order for such evidence to be found within the scope of Section 6, it must be contemporaneous with subsequent acts, and there must be no violation that would allow fabrication.

The theory of Dying Declaration is comparable to Section 32 of the Indian Evidence Act of 1872. The concept outlined in this section is that if a person has firsthand knowledge of the facts of a case but is unable to present in court due to circumstances such as death or incapacity, his information may be passed on to another person. This is one of the clauses that states hearsay testimony isn't allowed. The following are the main points of this section[2]:

- For the statement to be relevant, it must be delivered by the individual before his death.
- The statement is made by anyone who is aware and suspects that death is approaching.
- Unlike hearsay proof, the testimony must be recorded by a person who is a concerned person.
- The assertion must be trustworthy, truthful, and credible.

DISCUSSION

The idea of res gestae is inherited from English law and has been included into the Indian Evidence Act under Section 6. However, in order to avoid misunderstanding, the word res gestae has been left out of Section 6. The notion of res gestae refers to "everything done," which includes "words said as part of the same transaction." This section establishes the idea that if a "transaction," which can be a contract or a crime, is a fact in dispute, the proof can be provided by each and every fact that is a component of that transaction.

As a result, the facts that surround an event's occurrence are known as its res gestae. Items of evidence are sometimes considered to be component of the res gestae owing to the nature and depth of their relationship

with the topic in question, and as such are admissible, according to Halsbury's Law of England. Res Gestae can be broadly defined as stuff connected to and instructional of the main fact, including acts and statements that are so intimately related to it that they form a part of the transaction and without which the main fact would not be adequately comprehended. They are the events themselves, as expressed via the players' spontaneous words and actions, as well as the circumstances, facts, and statements that arise from the central fact, are contemporaneous with it, and help to demonstrate its nature[3].

The act must be described in the statement.

Res Gestae are situations that are intuitive manifestations of a certain disputed act and are permissible when evocative of that conduct. When it comes to acts and omissions related with a transaction, there isn't much problem because the nature of the transaction merely suggests its necessary components. Similarly, where a question about the delivery of goods has been raised as part of the execution of an agreement, the fact that the goods were delivered through a series of numerous intercessors in the course of delivery to the ultimate customer will be considered relevant, with each subsequent delivery constituting a separate transaction. Furthermore, remarks can be used to supplement physical happenings. When an event involves a series of physical activities, they can be linked together by closeness of time, proximity of location, continuity of action, and community of purpose in order for the set of acts to form the same transaction[4].

In the case of a res gestae statement: In the case of *Gentela Vijay Vardhan Rao and Others v. State of Andhra Pradesh*, the accused discreetly entered a passenger bus with petrol and a matchbox before setting it on fire, killing 23 people. The victim's statement was recorded by the Magistrate in the anticipation of death. The remarks recorded by Magistrate did not constitute part of res gestae since there was a discernible delay between acts of devastation and Magistrate's recording of statement[5].

With regard to psychological activities establishing part of the transaction, or words accompanying physical acts, it was held in *Sawal Das v. State of Bihar* that extemporaneous statements or screams are deemed significant.

A spontaneous statement is required.

The idea of res gestae has been used by courts of law with considerable rigor and caution. The concept highlights the importance of the statement being made so promptly before, after, or concurrently with the incident that there is little time to prepare and therefore fabricate a false tale.

In the case of *Thomson v. Thomson*, the court decided that if enough time had passed, the fabrication of a false story would appear to be untrustworthy evidence. Furthermore, in the instance of *R v. Bedingfield*, the court determined that whatever was spoken by the deceased person at the time the deed was performed was admissible[6].

Lord Atkinson stated in *R v. Christie* that the statements spoken must be *de recenti* and not after an interval that will provide time for a concocting tale. He went on to say that the declaration would be an outburst pushed out of a witness by the passion evoked by the incident, not a subsequent narrative. As a result, the courts have emphasized the need of careful timing, location, and events between the time of the statement and the critical occurrence.

The kid witness in the case of *Uttam Singh v. State of MP* was sleeping with the dead father at the time of the occurrence and was awoken by the sound of the fatal blow of the axe on the deceased's neck. When the youngster saw it, he screamed for aid to his mother, describing the attacker as the offender. Hearing the sounds, the child's mother and sisters, as well as other witnesses, arrived at the scene. The evidence is admissible under Section 6 of the Evidence Act as part of the same transaction as res gestae since it is natural and likely under the facts of the case[7].

The court decided in *Gulam v. R* that if a raped girl made a declaration to her mother after the rape when the perpetrator had fled and the girl returned to her house from the scene of the rape, it was not allowed under Section 6 as part of the transaction. In *Sunil Kumar Arjun Das Gupta v. State of MP*, a girl went to a shop to make some purchases but was raped by the accused shop owner. She came home and told her mother about

the rape confrontation right once. It has been argued that the victim's statement to her mother can be considered acceptable under the rule of *res gestae* because it was made in the heat of the moment[8].

Territorial borders are not limited: The concept also highlights the fact that there can be no restrictions on the geographic limits within which the transaction must take place. Incidents involving a quick fight, shooting, or stabbing can occur anywhere, whereas an insurgence can affect a whole country or continent.

When there is a possibility of memory and explanation of the remarks, they are no longer considered to be part of the same transaction. In *Kameshwar Prasad Singh v. Rex*, the court held that a deposition must be substantially coexistent with the fact, and that if it is separated from the fact by an interval that allows for fabrication, even if it is small, it cannot be treated as substantially coexistent with it and is in violation of the *res gestae* doctrine. It would relegate it to the status of a complaint or a recount of a previous occurrence.

The court in *R. M. Malkani v. State of Maharashtra* held that a contemporaneous taperecord of a significant discussion might be regarded a relevant fact, or *res gestae*[9].

A participant or witness must make the following statement:

In *M. Loganathan v. State*, the court held that where the accused was accused of rape of the victim by taking her to a sugarcane field, any evidence given by the witness (who came to rescue her) regarding the occurrence and was informed of the details by the victim, would fall within the realm of the doctrine of racial profiling.

In the case of *Badrudin Rukonuddin Karpude v. State of Maharashtra*, it was decided that any information given to a witness by the deceased shortly before his death qualifies as relevant evidence under Section 6.

By stander's statement:

In response to a bystander's statement: The word "bystanders" refers to those who are there at the time of an incident rather than those who congregate around the scene after the act or event has occurred.

In *Bijai Singh v. State*, 'A' was standing near the shooting location and reported the P. Ws. shortly after the incident that the accused had shot the dead. The evidence was found to be acceptable under Section by the court.

Chotka was being tried in a court of law for the murder of the dead, Bhutai, in the case *Chotka v. State*. The accused approached the dead while he was drinking tea and stabbed him. The corpse of the deceased was discovered in an open sewer and was taken up and placed on a plank. At that time, a large number of individuals arrived. Kiran Bala, a prosecution witness, went to the crime site and was told by a bystander that Chotka had stabbed Bhutai. As a result, the court ruled that the prosecution witness's statement was inadmissible since there was no proof that he observed the occurrence firsthand[10].

As an exception to hearsay, there is Res gestae:

Res Gestae and hearsay evidence are two words that appear to be interchangeable but have distinct meanings and characteristics. The theory of *res gestae*, on the other hand, might be considered an exception to the doctrine of hearsay evidence. Hearsay evidence is defined as a declaration made by someone who has not personally observed the occurrence of an event but has only heard about it from others.

Hearsay evidence is only admissible if it is related to the occurrence of the fact in question. The witness in *R. v. Foster* had merely observed a fast car and had not witnessed the crash. The accident's nature was explained to him by the injured person. He was permitted to testify about what the deceased stated, despite the fact that it was just derived information because it was part of *res gestae*.

Declaration of The Dying Doctrine

The theory of dying declaration, as explained in Section 32, has been taken from English law and integrated into the Evidence Act. The goal of this concept is to ensure the greatest level of truth, and the law seeks the best evidence in each instance. Exclusions to the hearsay rule exemplified in this section apply to affirmations or declarations made by persons who have passed away, including (1) declarations concerning the cause of

death, (2) declarations made in the course of business or duty, (3) declarations made in contradiction of interest, (4) declarations as to public rights, (5) declarations as to pedigree, and (6) declarations by testa.

Section 32 is not intended to be comprehensive. The court held in *Sarat Sundari v. Ramkinkar* that the document is not admissible if the assertions or declarations made by the deceased people do not fall within the scope of Section 32. The admissibility of claims made by persons who cannot be brought before the court to provide their own testimony is limited by this provision.

Sections 6 and 32 of the Indian Evidence Act have a relationship.

Sections 6 and 32 of the legislation are diametrically opposed clauses that establish two fundamentally distinct ideas. Section 6 indicates that a fact that is a part of the same transaction might be regarded pertinent, but Section 32 states that the declarant must prepare a statement or declaration concerning his death or injuries before his death, even if it is not a fact in dispute. Section 6 allows hearsay testimony to be admitted in court, but Section 32 stipulates that hearsay testimony cannot be permitted in a court of law in order to safeguard the public interest.

The justification for rejecting hearsay evidence under Section 32 is that it is unreliable testimony that is not subjected to cross-examination, making it even more difficult to determine the veracity of the subject and potentially becoming incorrect due to repetition. In *State of MP v. Ramesh*, the court determined that hearsay testimony might be considered admissible if the witness ran to the prosecution witness soon after the occurrence and told him that her father had been viciously assaulted. Although a dying declaration is an indirect evidence that may be classified as a type of hearsay evidence, it is an exception to the rule against admissibility” of hearsay proof, according to the *Ram Bihari Yadav* case. The court decided in the case of *III Additional Sessions Judge v. Gantela* that when the declarant of the dying statement survives, his declaration is acceptable as *res gestae*[11].

CONCLUSION

The theory of *res gestae*, as defined in Section 6 of the act, states that facts that form part of the event can be classified as *res gestae*, i.e. "things done," which includes the words that have been uttered throughout the course of the event. The circumstances that are inherent and unpleasant facts of an occurrence are known as *res gestae*. The premise of the theory of *res gestae* operates on two grounds: spontaneity and immediacy. The statements must not be merely a recount of a previous transaction, but must be current. When a transaction is not prosecuted for conviction under any statute, it usually falls under this premise. The vagueness of the *res gestae* concept has been widely challenged; as a result, the doctrine, which originally applied solely to deeds performed, now now applies to words said. Furthermore, the theory of *res gestae* provides protection from the prohibition on hearsay testimony or statements.

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