CONTRADICTIONS AND DISCRIPANCIES IN EVIDENCE IN CRIMINAL TRAILS

RELEVANCY OF TESTIMONY OF A SINGLE WITNESS

HITTING BY STICK
(Previous Statement)

HITTING BY LEG
(Testimony)

Sole Witness

-:PRESENTED BY:-
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Contradiction and discrepencies in evidence in criminal trial

Introduction

"The man who saw it, has given testimony, and his testimony is true. He knows that he tells the truth, and he testifies, so that you also may believe."

-Biblical verse John 19:35

Witnesses and their role in determining outcomes of cases are crucial for trials in the courts. A favorable witness in providing favorable testimony works for strengthening the case of the party producing that witness.

"The book is true and if the evidence seems to contradict it, it is the evidence that must be thrown out not the book."

- Richard Dawkins

However this testimony may be discredited by the adverse party while examining the witness. A tough situation arises when the favorable witness does not favour the party which calls him, which might lead to change in the outcome of a case.

Following factors are generally seen in the oral testimony of witnesses examined before the courts :

- Contradictions
- Inconsistencies
- Exaggerations/ Embellishments
- Contrary statements by two or more witnesses on one and the same fact.

Extracting a contradiction or an omission which amounts to a contradiction is an art of the cross-examiner and the method to prove it is a

science. Any contradiction if proved in accordance with the provisions of the Evidence Act, 1872 can impeach the credibility of the witness and can help in rejecting the evidence of the prosecution in criminal trials and of the other side in civil trials. A witness can be contradicted with its previous statements either made by him in writing or reduced into writing by someone.

Contradiction & Discrepencies: Meaning

A. Contradiction:-

According to the Oxford Dictionary:-

'Contradict' means - to affirm to the contrary;

to be directly opposed to;

to go counter to;

to deny categorically.

The Cambridge Dictionary defines:-

'Contradiction' means:- the act of saying something that is opposite or very different in meaning to something else what is said earlier.

The word 'contradiction' is not defined under the Evidence Act or under the Criminal Procedure Code, 1973 but a diminutive reference is perceived under Section 155 of the Indian Evidence Act, 1872. Section 155(3) of Evidence Act, reads as "*by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted*".

B. Omission:-

The Cambridge Dictionary defines omission:- the act of not including something or someone that should have been included.

The Collins dictionary defines omission:- *something that has been left out or excluded."*

Omission/ Discripancy	Contradiction

It means missing to state something from the previous statement.	It means stating something different from the previous statement.
Illustration 'X' states in the witness box that he saw 'Y' stabbing 'Z' But before police 'X' stated that he saw 'W' and 'Y' stabbing 'Z'	**Illustration** 'X' states in the witness box that 'Y' stabbed 'Z'; But before the Police 'X' stated that 'A' stabbed 'Z'.

Omissions and Contradictions mostly relate to previous statement made by a witness (most commonly u/s 161 of Code of Criminal Procedure 1973). Causes, and more particularly, effects of such 'something missing (omissions)' and 'something different (contradictions)' have to be dealt with by the trial Judge while weighing and appreciating the testimonies of witnesses.

Relevant sections dealing with Contradictions and Discrepancies

A. Important provisions:-

Section 145 in The Indian Evidence Act, 1872

145. Cross-examination as to previous statements in writing.—A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Section 161 in The Code Of Criminal Procedure, 1973

161. Examination of witnesses by police.

(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Section 162 in The Code Of Criminal Procedure, 1973

162. Statements to police not to be signed: Use of statements in evidence.

(1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re- examination of such witness, but for the purpose only of explaining any matter referred to in his cross- examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872 (1 of 1872), or to affect the provisions of section 27 of that Act.

B. Ancilliary provisions:-

Section 146 in The Indian Evidence Act, 1872

146. Questions lawful in cross-examination.—When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend—

(1) to test his veracity,

(2) to discover who he is and what is his position in life, or

(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture: [Provided that in a prosecution for rape or attempt to commit rape, it shall not be permissible to put questions in the cross-examination of the prosecutrix as to her general immoral character.]

Section 155 in The Indian Evidence Act, 1872

155. The credit of a witness may be impeached in the following ways by the adverse party, or with the consent of the Court, by the party who calls him—

1. By the evidence of persons who testify that they, from their knowledge of the witness believe him to be unworthy of credit;
2. By proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;
3. By proof of former statements inconsistent with any part of his evidence which is liable to be contradicted.

ORIGIN AND DEVELOPMENT

In **Queen Carolines case in 1820,** the common law principle requiring the cross-examiner to confront a witness with the contents of a prior inconsistent statement before the introduction of extrinsic statement was laid down. It further "*laid down the requirement that a cross-examiner, prior to questioning the witness about his own prior statement in writing, must first show it to the witness*." The witness must be confronted with the time, place, persons present and the substance of an impeaching statement before extrinsic evidence could be admitted as proof that the statement had been

made. **(United States v. Cottrell, 1986 U.S Dist. LEXIS 19272 (E.D. Pa.Oct, 9, 1986)**

The same rule finds place in **Section 145 of the Evidence Act, 1872**. The rule is based on the principle of fair-play and is essential for proving the contradiction regarding any inconsistency in the previous statements.

In ***Bal Gangadhar Tilak* v. *Sriniwas Pandit (1915 SCC OnLine PC 16)***, it was propounded that:- the purpose of bringing the attention of the witness before using the documents or earlier statements is to impeach his credit.*"On general principles, if a witness is under cross-examination on oath he should be given the opportunity, if documents are to be used against him, to tender his explanation and to clear up the particular point of ambiguity or dispute. This is a general, salutary, and intelligible rule, and where a witness's reputation and character are at stake the duty of enforcing this rule would appear to be singularly clear."*

IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS, 2017 SCC OnLine SC 298, the Hon'ble Supreme Court took Suo Motu cognizance in respect of inadequacies and deficiencies in criminal trials.

Judgement dated 30.03.2017 specified the below mentioned 10 areas to be considered to achieve the said goal:

1. Discouragement of the practice of the Trial Judge leaving the recording of deposition to the clerk concerned and recording of evidence going on in more than one case in the same Court room, at the same time.
2. Recording the depositions of witnesses in typed format, using computers, in Court, to the dictation of the presiding officers, in English wherever possible, so that readable true copies are available straightaway and can be issued to both sides on the date of examination itself. Also, the deposition of each witness must be recorded dividing it into separate paragraphs assigning para numbers to facilitate easy reference to specific portions.

3. Witnesses/documents/material objects be assigned specific nomenclature and numbers.
4. Every judgment must mandatorily have a preface showing the name of the parties and an appendix showing the list of Prosecutions Witnesses, Prosecution Exhibits, Defence Witnesses, Defence Exhibits, Court witnesses, Court Exhibits and Material Objects.
5. The practice of referring to the names of the accused/witnesses and documents descriptively in the proceedings paper and judgments creates a lot of confusion. Whenever there is need to refer to them by name their rank as Accused/Witness must be shown in brackets.
6. Repetition of pleadings, evidence, and arguments in the judgments and orders of the Trial Court, Appellate and Revisional Courts must be avoided.
7. In every case file, a judgment folder to be maintained, and the first para in the appellate/revisional judgment to be numbered as the next paragraph after the last para in the impugned judgment.
8. In order to help the judges to have a clearer and surer understanding of the situs of the injuries, the Investigating Officer should obtain or procure the wound certificate/ post mortem certificate showing the front and rear sketch of the human torso showing the injuries listed in the medical documents specifically.
9. ***The contradictions/omissions must be properly marked.***
10. The Trial Courts must be mandatorily obliged to specify in the Judgment the period of set off under Section 428 Cr.P.C specifying date and not leave it to be resolved later by jail authorities or successor presiding officers.

Of the above, one of such inadequacy and deficiency which the Supreme Court noticed was regarding ‘Marking of Contradictions’. The Hon’ble Supreme Court in its order observed that *“A healthy practice of marking the contradictions/ omissions properly does not appear to exist in several States”*.

Recording of Contradiction and Omission/ Discrepancy

STEP 1

When the Witness is called for his testimony, the advocate for defense may ask the witness any question in order to dig up the ontradictions in the statement of the witness recorded before the investigating officer and of what he is deposing in the court.

STEP 2

If any such part of his previous statement (eg. u/s 161 of Cr.P.C) is found contradictory the said part of his statement shall be brought to the notice of witness himself and he shall be further questioned to the truthfulness of the same.

STEP 3

If the witness admits the said contradiction, then it is proved; if he denies to the said contradiction then the presiding judge shall mark the said part of the statement for identification, commonly called as "Portion mark or passage mark".

STEP 4

In order to prove the contradiction, the advocate shall put questions to the investigating officer who recorded the previous statement of the witness, as to whether the Portion marked is true extract and was it recorded by him.

STEP 5

If there is some additional information or any contradictory statement by the witness which is different from what has been stated in his previous statement then a question to that effect as why is such an information was not recorded by the investigating officer may be put to him in order to prove the contradiction. Likewise, the contradiction of the statement can be proved.

In another case of ***Tara Singh* v. *State* (1951 SCC 903),** the Hon'ble Supreme Court held that:- *"....if the prosecution wishes to go further and use the previous testimony to the contrary as substantive evidence, then it must in my opinion, confront the witness with those parts of it which are to be used for the purpose of contradicting him. Then only can the matter be brought in as substantive evidence under Section 288. As two of the eyewitnesses were not confronted in the manner required by Section 145, their statements will have to be ruled out, and if that is done, the material on which the conviction is based is considerably weakened."*

Later on, in ***Dahyabhai Chhaganbhai Thakkar v. State of Gujarat (AIR 1964 SC 1563)*** it was held that, it would have been pointless to draw the witness attention to each sentence and ask his explanation because the explanation would have been the same that it was false and given under pressure of police. However, the earlier statement will have to be read over in order to comply with the requirement of Section 145 of the Evidence Act. If a clever witness faithfully conforms to what he stated earlier to the police or in the committing court, but in the cross-examination introduces statements in a subtle way contradicting in effect what he stated in the examination-in-chief then such witness can be cross-examined by the prosecution.

Further, the hon'ble Court in the judgment of ***State of Rajasthan v. Kartar Singh (1970 2 SCC 61(15))*** has held that if the witness resiles

completely from its earlier statement than, if the entire previous statement is read over to the witness and then confronted with the said statement that would be in compliance with Section 145 of the Evidence Act.

The Supreme Court in the judgment of ***V. R. Mishra v. State of Uttarakhand (2015)9 SCC 588*** has laid the procedure for bringing the contradiction on record of the trial. The procedure prescribed is as under:

"Once the examination-in-chief is completed by the Public Prosecutor and the witness deposes something contradictory to the previous statement then during cross-examination by the defence:

- His attention has to be drawn to that part of the statement made before the Police which contradicts his statement in the witness box.
- The attention of the witness drawn to that part must reflect in the cross-examination.
- While recording the deposition of the witness, it becomes the duty of the trial court to ensure that the part of the police statement/case diary with which it is intended to contradict the witness is brought to the notice of the witness in his cross-examination.
- Ideally the relevant portions of case diary/statement used for contradicting a witness must be extracted fully in the deposition. If the same is cumbersome at least the opening and closing words of the contradiction in the case diary statement must be referred to in the deposition and marked separately as a prosecution/defence exhibit.
- If he admits to have made the previous statement then no further proof is necessary to prove the contradiction. The contradiction is brought on record and it is proved. It can be read while appreciating the evidence.
- But if the witness after going through the earlier statement denies having made that part of the statement then it must be mentioned in the deposition.
- By this process the contradiction is merely brought on record, but it is yet to be proved.

- Thereafter when the investigating officer or the officer who recorded the said statement is examined in the court, his attention should be drawn to the passage marked for contradiction.
- After going through the police statement if he says that the witness had made that statement then the contradiction can be said to have been proved.
- If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the Court cannot suo motu make use of statements to police not proved in accordance with Section 145 of the Evidence Act. “

Method of marking previous inconsistent statements to prove omission which amounts to contradiction

To prove the omission there is a slightly different technique. In the case of omission, the contradiction is implied and is not so direct. In order to confront with the earlier statement there is nothing in the earlier statement which is contradictory as the witness might have improved his version during the testimony. So first the contradiction will have to be brought by asking questions in cross-examination.

As explained in the judgment of ***Tahsildar Singh v. State of U.P. AIR 1959 SC 1012,*** sometimes a positive statement may have a negative aspect and a negative one a positive aspect. When the witness says that ‘a man is dark’ which is a positive statement, it also means that ‘the man is not fair’, which is a negative aspect of the statement and which is implied in the positive statement. These are the three categories of omissions which may amount to contradiction and will have to be proved during the trial.

Let us understand this by an illustration which is explained in the landmark judgment of *Tahsildar Singh (supra)*:

- ‘X’ makes a statement before the Police that “When I arrived at the scene I saw ‘A’ running away, chased by ‘B’ and caught by ‘C’”.

- In the witness box ‘X’ says that “When I arrived at the scene, I saw A take out a dagger from his pocket, stab ‘D’ in his chest and run away. He was chased by ‘B’ and caught by ‘C’.

Here is an example of omission of two facts in the statement before the Police:

- ‘A’ takes out a dagger from his pocket;
- ‘A’ stabbed ‘D’ in his chest;

The said omissions are vital. It is not believable that the witness who says ‘A’ took out a dagger and stabbed D in the chest would not mention such a crucial and important fact. Further, it is also not possible that a police officer investigating the case would miss out on such a crucial piece of information. Therefore, it can be implied that the witness has improved his version and is not giving out the correct facts and therefore the omission becomes a contradiction.

The omission will have to be converted into a contradiction by asking the question in the cross-examination which will bring out the contradiction. The cross-examination in the case of omission becomes very important and it should be aimed at bringing out the contradiction between the statements.

Contradictions & their appreciation

Case/ situations

1. The court can appreciate the evidence brought on record to find out the truth in the light of grains and chaff theroy by seperating the truth from chaff.

2. If there are no material discrepancies or contradictions in the testimony of a witness, his evidence cannot be disbelieved merely on the basis of some normal, natural or minor contradictions, inconsistencies, exaggerations, embellishments etc. The distinction between material discrepancies and normal discrepancies are that minor discrepancies do not corrode the credibility of a party’s case but material discrepancies do so.

Case law:- 1. Mustak Vs. State of Gujarat, (2020) 7 SCC 237

Held:- Minor discrepancies in evidence and inability to recall details of the description of houses, roads and streets after several years, do not vitiate the evidence of recovery itself.

2. Vinod Kumar Garg Vs. State NCT of Delhi, (2020) 2 SCC 88

Held:- Minor discrepancy and inability of Nand Lal (PW-2) and Hemant Kumar (PW-3) to remember the exact details of whether or not the handwash or pant wash was done would not justify acquittal of the appellant.

3. Picking up one word or sentence out of testimony of a witness and deriving conclusion therefrom not proper:

Picking up mere one sentence from here or there and that too made by the witness in response to a question put to him in cross-examination cannot be considered alone. Evidence of a witness has to be read as a whole. Words and sentences cannot be truncated and read in isolation.

Case law:-Rakesh Vs State of UP,(2021) 7 SCC 188

Held:- "One is required to consider the entire evidence as a whole with the other evidence on record. Mere one sentence here or there and that too to the question asked by the defence in the cross-examination cannot be considered stand alone."

4. Minor contradictions in the testimonies of the Prosecution Witness are bound to be there and infact they go to support the truthfulness of the witnesses.

Case law:- Bhagwan Jagannath Markad Vs. State of Maharashtra, (2016) 10 SCC 537

Held:- "While appreciating the evidence of a witness, the court has to assess whether read as a whole, it is truthful. In doing so, the court has to keep in mind the deficiencies, drawbacks and infirmities to find out whether such discrepancies shake the truthfulness. Some discrepancies not touching the core of the case are not enough to reject the evidence as a whole. No true witness can escape from giving some discrepant details. Only when discrepancies are so incompatible as to affect the credibility of the version of a witness, the court may reject the evidence……A witness may be untruthful in some aspects but

the other part of the evidence may be worthy of acceptance. Discrepancies may arise due to error of observations, loss of memory due to lapse of time, mental disposition such as shock at the time of occurrence and as such the normal discrepancy does not affect the credibility of a witness."

5. Contradictions natural when witnesses examined after lapse of time :
When witnesses are examined in the court after a considerable lapse of time, it is neither unnatural nor unexpected that there can be some minor variations in the statements of the prosecution witnesses.
Case law:-Dharnidhar Vs. State of U.P., (2010) (7) SCC 759
Held:- "Witnesses have been examined in the Court after a considerable lapse of time. It is neither unnatural nor unexpected that there could be some minor variations in the statements of the prosecution witnesses."

6. Contradictions appearing in the deposition of witnesses:
Normal contradictions appearing in the testimony of a witness do not corrode the credibility of a party's case but material contradictions do so.
Case law:- Sucha Singh Vs. State of Punjab, (2003) 7 SCC 643
Held:- ".....normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so.....Where it is not feasible to separate truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto."

Importance of briging contradiction and discripencies on record and its effect

In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety.

The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence. *“Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility.”* Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution’s case, render the testimony of the witness liable to be discredited.

The Hon'ble Supreme Court, in case of ***Bhoginbhai Hirjibhai Vs. State of Gujarat AIR 1983 SC 753*** held that:

"*Discrepancies which do not go to the root of the matter and shake the basic version of the witnesses cannot be annexed with undue importance. More so, when the all important "probabilities factor" echoes in favour of the version narrated by the witnesses*"

Further, the Hon’ble Court in **State of U.P. Vs. M. K. Anthony AIR 1985 SC 48**, has held that:

"*for appreciation of evidence, the approach must be whether the evidence of the witness read as a whole, appears to have a ring of truth. Once that impression is formed, the Court should scrutinize the evidence keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by him and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole*"

RELEVENCY OF TESTIMONY OF SINGLE WITNESS

“Discovering witnesses is just as important as catching criminals”
- Simon Wisenchai

Introduction

The Criminal Jurisprudence in India has been established on certain principles founded by the Judiciary through its pronouncements.

1. It is a presumption that every accused is innocent until proven guilty in a court of law provided all principles of natural justice were followed in a fair trial.
2. The burden of proof lies on the prosecution to prove the guilt of the accused rather than him proving innocence.
3. The proof shall be conclusive enough to prove the guilt beyond the reasonable doubt.
4. In case of any doubt regarding the guilt of the accused, the benefit of doubt is provided to the accused and he shall be acquitted.

To satisfy these requirements of criminal jurisprudence, just and fair trial are carried out with each party putting their contentions before the judge. The statements by the witnesses are submitted as evidence in a Court made under an oath, whether oral statements or written testamentary deposition and the court has to then weight the testimony given by witness to arrive to the truth.

Who can be a witness?

Section 118 in The Indian Evidence Act, 1872, mentions who can be competant witness.

Section 118 in The Indian Evidence Act, 1872

118 Who may testify. —All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years,

extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.— A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

The court identifies all competent individuals who can testify with proper knowledge of the crime. However, there are restrictions placed by the court on those who might be incompetent in understanding the questions put to them, these include:

- by tender years;
- extreme old age;
- disease, whether of body or mind, or any other cause of the same kind.

The condition of the witness does not bar him from testifying but his incompetency to understand the questions or answer rationally exclude him from being a witness.

Background

The judge decides the credibility of the witness on the basis of evidence deposed in a case.

The Dharamshastras have condemned false testimony during trial pragmatically binding individuals towards his duty of speaking the truth which bound the society.

"The admonition given by the judge to witnesses is a peculiarity of the Hindu legal system." They gave a prior warning to the witness of the truthful statement as his dharma and to stand its dignity based on morality prevalent in those societies. It also infused fear in them by a detailed depiction of the moral consequences of perjury. Equating truth with the goodness and positive forces of nature with merits growing made a witness to speak the truth irrespective of his caste status.

"The axiomatic principle is that giving true evidence is rewarded with an afterlife in the heaven, so the corollary is that perjury leads to hell."

Relevancy of Sole witness

"Evidence has to be weighed and not counted"

The Hon'ble Supreme court of India has in number of cases sustained convictions on the basis of the testimony of a sole witness and have stated that value is always given on the quality of evidence rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence. As per Sec. 134 of the Evidence Act, no particular number of witnesses is required to prove any fact i.e. Plurality of witnesses in a criminal trial is not the intent.

SECTION 134. Number of witnesses.—No particular number of witnesses shall in any case be required for the proof of any fact. This section clearly says that no particular number of witnesses shall in any case be required for the proof of any fact.

In the landmark case of ***Vadivelu Thevar vs. The State of Madras [AIR 1957 SC 614],*** the Hon'ble Supreme Court of India laid down guidelines with regards to sole testimony.

"On a consideration of the relevant authorities and the provisions of the Indian Evidence Act. The following propositions may be safely stated as firmly established:-

1. As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character

2. Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, for example in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character.

3. Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much depends upon the judicial discretion of the Judge before whom the case comes. In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act has categorically laid it down that ” no particular number of witnesses shall in any case be required for the proof of any fact.” The legislature determined, as long ago as 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses.”

In another case of **Bhimappa Chandappa v. State of Karnataka (2006) 11 SCC 323**, the Hon’ble Supreme Court held that “the testimony of a solitary witness can be made the basis of conviction. The credibility of the witness requires to be tested with reference to the quality of his evidence which must be free from blemish or suspicion and must impress the Court as natural, wholly truthful and so convincing that the court has no hesitation in recording a conviction solely on his uncorroborated testimony.”

CONCLUSION

If contradictions and discrepencies are proved, it can change the fate of the case for the defense. The proof of the same can help to bring an innocent person out from the cage of the criminal trial. As our Indian Judicial system is based on the principle that - ***“It is better to let go hundred guilty persons than to convict one innocent.”***

Grain and chaff theory helps in bringing out the truth from the contrary testimony to arrive at the just and fair judgement.

EFFECT OF TESTIMONY OF SOLE WITNESS

	TYPES OF WITNESS		RELATED AUTHORITIES
SOLE WITNESS	**Sterling witness/ victim/ injured witness**	**Relevant** ⬇ **Authentic** ⬇ **Admissible** ⬇ **Reliable**	**1. Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21** The "sterling witness" should be of a very high quality and calibre whose version should be unassailable. The Court considering the version of such witness should be in a positing to accept it for its face value without any hesitation. To test the quality of such witness, what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to with stand the cross examination of any length and howsoever strenuous it may be, and under no circumstance should be roomed for any doubt as to the factum of the occurrence, the persons involved. **2. Moti lal v state of M.P. (2008) 11 SCC 20** It is settled law that the victim of sexual assault is not treated as accomplice and as such, her evidence does not require corroboration from any other evidence including the evidence of a doctor. In a given case even if the doctor who examined the victim does not find sign of rape, it is no ground to disbelieve the sole testimony of the prosecutrix.
	Interested witness (brother)		**Amar Singh vs The State (NCT Of Delhi) (2020) 19 SCC 165** The conviction can be based on the testimony of a single eye witness so long he is found to be wholly reliable.

	Eye witness		**Sonu @ Hemraj v. State (NCT of Delhi) 2020 SCC OnLine Del 1782** As far as the question of non-joining of public witnesses at the time of arrest of appellants is concerned, PW 18 Gaurav Katheria and PW 20 Akhil accompanied by the police party and in our opinion, there was no need for the IO to join more public witnesses because it is the quality of the evidence and not the quantity which is essential.
	Child witness		**Pramila v. State of U.P (2021) 12 SCC 550** Evidence of child witness alone can form basis for conviction and the mere absence of any corroborative evidence cannot alone discredit a child witness. However, where a child witness is to be considered and more so when he is the sole witness, a heightened level of scrutiny is called for of a child witness. In case of tutoring, the court can reject his statement partly or fully. Inference as to whether child has been tutored or not can be drawn from the cintents of his deposition.
	Investigating officer		**Rameshbai Mohanbai Koli & ors. vs. State of Gujrat SC Appeal No. 1166 of 2008** The courts of law have to judge the evidence before them by applying the well recognized test of basic human probabilities. Prima facie, public servants must be presumed to act honestly and conscientiously and their evidence has to be assessed on its intrinsic worth and cannot be discarded merely on the ground that being public servants they are interested in the success of their case. [vide State of Kerala vs. M. M. Mathew & Anr., (1978) 4 SCC 65)]