BLOGS

Practice Evidence Law Questions for CLAT 2024

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PASSAGE 1

The Supreme Court, on Tuesday, reversed a conviction recorded by the Trial Court, affirmed by the Tripura High Court on the ground that major links of the chain of circumstances had not been proved by the prosecution evidence in a case based on circumstantial evidence.

A Bench comprising **Justice B.R. Gavai and Justice Vikram Nath** was of the opinion that in the facts and circumstances of the present case, where a case based on circumstances evidence was not made out, it would be unjust to uphold the conviction. Considering the same, the Bench noted that the accused is entitled to the benefit of the doubt. It acquitted the accused of all charges and directed them to release him. It is pertinent to note that though, as on Tuesday, the accused was in judicial custody, he has been granted parole by the State.

Background

The police, having been informed that blood was seen on the road, reached the location to find a vojali (big knife), a taga (thread) and some broken pieces of glass which appeared to be of the rear-view mirror of a motorcycle. The police noticed visible marks of dragging some heavy objects in the jungle on the side of the concerned road. While they were carrying out their investigation, one Arjun Das informed the police station that his nephew Kaushik Sarkar had been missing since the previous evening. The police recorded the statement of Kaushik’s mother who informed them that on the previous evening, he had gone out with two of his friends (including the appellant Indrajit Das). According to the prosecution, the two friends had confessed before the Investigating Officer that they had accompanied the deceased on his bike the evening he went missing. As per the Investigating Officer, the two friends assaulted Kaushik with vojalis dragged his dead body and the motorcycle to the nearby river and threw them into the river. One of the accused was tried as a juvenile, while Indrajit faced a regular trial. At the trial, Indrajit pleaded not guilty and

claimed to be tried. The Trial Court convicted him for offences punishable under Section 302, 34 of the Indian Penal Code and sentenced him to life imprisonment and allied sentences to run concurrently. The High Court dismissed the appeal noting that the prosecution has been successful in proving charges beyond reasonable doubt.

In the present case, the dead body has not been recovered. Only a limb was recovered but no DNA testing was carried out to establish that the limb was that of the deceased Kaushik Sarkar. As such the entire case of the prosecution proceeds on the presumption that Kaushik Sarkar has died.

Analysis by the Supreme Court

At the threshold, the Court noted that the case is of circumstantial evidence and ought to fulfil the two-fold requirements –

1. Every link in the chain of circumstances necessary to establish the guilt of the accused must be established beyond reasonable doubt; and
2. All the circumstances must be consistently pointing towards the guilt of the accused

"The basic links in the chain of circumstances start with motive, then move on to last seen theory, recovery, medical evidence, expert opinions if any and any other additional link which may be part of the chain of circumstances."

Motive

The Court noted that the prosecution had not established a motive as to why the accused had committed the crime. It observed that the Trial Court and the High Court had also not recorded a finding on motive. The Court was of the opinion that motive carries a much greater importance in a case based on circumstantial evidence than one of direct evidence. In this regard, the Court referred to the judgments in *Kuna Alias Sanjaya Behera v. State of Odisha* (2018) 1 SCC 296 and *Ranganayaki v. State of Inspector of Police* (2004) 12 SCC 521.

Recovery of the body of the deceased

The dead body had not been recovered and the present case was based on the presumption that Kaushik Sarkar had died. No DNA test was carried out for the limb that was recovered. Referring

to the principle of *corpus delicti* the Court stated that there are judgments on both sides – a conviction can be recorded in the absence of recovery of corpus and no conviction can be recorded in the absence of corpus. The reason behind the latter view is that if the corpus is alive then one has to undergo a sentence without having committed any offence. The Court recorded that the non-recovery of the corpse would have relevance in considering the links of the chain of circumstances.

Last Seen Theory

The Court noted that Kaushik's mother had stated that upon enquiry he had told her that he was going out with the accused. Following Kaushik to the gate, she had also seen the two friends. However, in her cross-examination, she had denied making any such statement, though she conceded that she had told the Investigating Officer that she had seen the accused at her gate.

Extrajudicial Confession

As per the extrajudicial confession of the accused before the Investigating Officer, Kaushik Sarkar met them while they were waiting near a bazaar. The Court noted that if the extrajudicial confession was to be accepted then the last-seen theory of the mother would fall apart. The Court opined that the statement of the mother was an attempt to develop the last-seen theory. Moreover, the Court observed that –

"The extra-judicial confession is a weak piece of evidence especially when it has been retracted during trial. It requires strong evidence to corroborate it and also it must be established that it was completely voluntary and truthful."

Recoveries

The recoveries were made from an open place and could not have been in the exclusive and special knowledge of the accused persons.

Case details

Indrajit Das v. State of Tripura|2023 LiveLaw (SC) 152 |Criminal Appeal No. 609 of 2015|28th February, 2023|Justice B.R. Gavai v. Justice Vikram Nath

For Appellant(s) Ms. Madhumita Bhattacharjee, AOR Ms. Urmila Kar Purkayastha, Adv. Ms. Srija Choudhury, Adv. Ms. Piyali Paul, Adv. Ms. Arushi Mishra, Adv.

For Respondent(s) Mr. Shuvodeep Roy, AOR

Indian Evidence Act 1872- Circumstantial Evidence- Every link in the chain of circumstances necessary to establish the guilt of the accused must be established beyond a reasonable doubt- All the circumstances must be consistently pointing towards the guilt of the accused- Para 10.

Indian Evidence Act 1872- In a case of circumstantial evidence, motive has an important role to play. It is an important link in the chain of circumstances basic links in the chain of circumstances start with motive, then move on to last seen theory, recovery, medical evidence, expert opinions if any and any other additional link which may be part of the chain of circumstances – Para 12, 15

Indian Evidence Act 1872- Murder trial -the principle of corpus delicti- non-recovery of the corpse would have relevance in considering the links of the chain of circumstances - Para 16.

Indian Evidence Act 1872 -Extra-judicial confession-The extra-judicial confession is a weak piece of evidence especially when it has been retracted during trial. It requires strong evidence to corroborate it and also it must be established that it was completely voluntary and truthful – Para 21

QUESTIONS

Question 1: Imagine you are a legal advisor involved in the defence of Indrajit Das. One argument presented during the trial was the lack of a clear motive in the prosecution’s case. Drawing upon the court’s stance on establishing a motive in cases based on circumstantial evidence, provide a detailed analysis of why the defence considers the absence of a motive crucial. Additionally, suggests how the defence might leverage this argument to challenge the prosecution’s narrative.

Options:

a) The defence argues that circumstantial evidence alone should suffice, and the court should not place undue importance on establishing a motive.

b) Analysing the court's position, the defence emphasises that the lack of a motive weakens the entire case, making it essential for the prosecution to prove each link in the chain of circumstances beyond reasonable doubt.

c) The defence contends that the court's reference to cases like Kuna Alias Sanjaya Behera v. State of Odisha is irrelevant, and establishing a motive is an outdated requirement in modern legal contexts.

d) The defence suggests that motive is only crucial in cases with direct evidence, and circumstantial evidence should be evaluated independently.

e) The defence, not directly challenging the court's stance, argues that motive is a subjective element and can be open to interpretation, making it an unreliable aspect of the prosecution's case.

Explanation: Option (b) is correct. The defence leverages the court's position on establishing a motive, emphasising that the absence of a motive weakens the prosecution's case, requiring a stringent standard of proof for each link in the chain of circumstances.

Question 2: As a legal consultant, you are asked to assess the implications of the court's interpretation of the principle of corpus delicti in the case of Indrajit Das. The prosecution relied on the presumption of Kaushik Sarkar's death despite only a limb being recovered, and no DNA testing was conducted. In your analysis, discuss how the court's view on the principle of corpus delicti impacts cases where the dead body is not recovered. Provide recommendations on how future legal strategies could address this issue.

Options:

a) The court's interpretation of corpus delicti suggests that the absence of a recovered corpse is inconsequential, and future legal strategies should prioritize circumstantial evidence over physical evidence.

b) Analysing the court's stance, it is evident that the absence of a recovered corpse is a significant gap, and legal strategies should focus on establishing alternative forms of evidence to compensate

for this deficiency.

c) The court's perspective implies that the recovery of the corpse is only crucial in cases with weak circumstantial evidence, guiding future strategies to emphasise direct evidence.

d) Conflicting judgements on the relevance of a recovered corpse indicate a lack of clarity in legal principles, urging legal practitioners to advocate for a standardised approach in such cases.

e) The court's position does not provide clear guidance on addressing the absence of a recovered corpse in future cases, leaving room for legal professionals to interpret its relevance based on the specifics of each case.

Explanation: Option (b) is correct. The court's view on corpus delicti implies that the absence of a recovered corpse is a significant gap, and future legal strategies should focus on establishing alternative forms of evidence to compensate for this deficiency.

Question 3: Assume you are advising the defence team for Indrajit Das. The court emphasized the weakness of extrajudicial confessions, especially when retracted during trial. Analyze the implications of the court's view on extrajudicial confessions and propose a strategy for the defence team to address this aspect during the trial.

Options:

a) The defence should argue that extrajudicial confessions, even when retracted, are strong evidence and need no further corroboration.

b) Considering the court's stance, the defence should acknowledge the weakness of extrajudicial confessions and focus on presenting alternative forms of evidence to strengthen the case.

c) The defence can challenge the court's view, arguing that retractions during trial should not impact the admissibility and reliability of extrajudicial confessions.

d) Extrajudicial confessions should be the primary focus of the defence, with minimal emphasis on corroboration, as per the court's interpretation.

e) The defence should avoid relying on extrajudicial confessions altogether, given the court's scepticism about their reliability.

Explanation: Option (b) is correct. The defence should acknowledge the weakness of extrajudicial confessions, as highlighted by the court, and focus on presenting alternative forms of

evidence to strengthen the case.

Question 4: As a legal expert, you are asked to analyse the court's treatment of the last-seen theory in the case of Kaushik Sarkar's disappearance. Evaluate the court's interpretation of the last-seen theory and suggest how this concept could be strategically utilised or challenged in future cases involving circumstantial evidence.

Options:

a) The court's interpretation of the last seen theory is irrelevant in circumstantial evidence cases, and future strategies should prioritise other aspects of the case.

b) The last-seen theory is crucial in establishing guilt, and legal strategies should focus on strengthening this aspect to ensure a more robust circumstantial case.

c) Given the ambiguity in the court's treatment of the last-seen theory, future cases should avoid relying on this concept altogether.

d) The court's interpretation indicates that the last-seen theory is only relevant in cases with direct evidence, guiding future strategies to emphasise direct testimonies.

e) The court's view on the last-seen theory is unclear, leaving room for legal professionals to interpret and apply it based on the specifics of each case.

Explanation: Option (b) is correct. The court's interpretation suggests that the last-seen theory is crucial in establishing guilt, and legal strategies should focus on strengthening this aspect to ensure a more robust circumstantial case.

Question 5: You are tasked with preparing a legal brief on the court's treatment of recoveries made from an open place in the case of Indrajit Das. Discuss the court's stance on such recoveries and provide recommendations on how this aspect could be addressed or contested in future legal proceedings involving circumstantial evidence.

Options:

a) The court's treatment of recoveries made from an open place is inconsequential, and future legal strategies should prioritise other aspects of the case.

b) Analysing the court's view, it is evident that recoveries made in an open place hold significant relevance, and legal strategies should focus on establishing the exclusive and special knowledge

of the accused persons regarding these recoveries.

c) Given the lack of clarity in the court's treatment, future cases should avoid relying on recoveries made from an open place as a crucial piece of evidence.

d) The court's perspective indicates that recoveries from an open place are only relevant if there is direct evidence of the accused's involvement in the crime, guiding future strategies to emphasise direct testimonies.

e) The court's position does not provide clear guidance on addressing the significance of recoveries made from an open place in future cases, leaving room for legal professionals to interpret its relevance based on the specifics of each case.

Explanation: Option (b) is correct. The court's view suggests that recoveries made in an open place hold significant relevance, and legal strategies should focus on establishing the exclusive and special knowledge of the accused persons regarding these recoveries.

Question 6: You are advising the prosecution team in a similar case to Indrajit Das. The defence has raised concerns about the credibility of the last-seen theory presented by the prosecution. Evaluate the court's treatment of the last-seen theory in Indrajit Das's case and suggest how the prosecution could address or strengthen this aspect in future cases.

Options:

a) The court's treatment of the last-seen theory is irrelevant, and the prosecution should focus on other aspects of the case.

b) The last-seen theory is crucial, and the prosecution should present direct testimonies to reinforce its credibility.

c) Given the ambiguity in the court's treatment, the prosecution should avoid relying on the last-seen theory in future cases.

d) The court's interpretation indicates that the last-seen theory is only relevant in cases with direct evidence, guiding the prosecution to emphasise direct testimonies.

e) The court's view on the last-seen theory is unclear, leaving room for the prosecution to interpret and apply it based on the specifics of each case.

Explanation: Option (b) is correct. The court's treatment suggests that the last-seen theory is crucial, and the prosecution should present direct testimonies to reinforce its credibility.

Question 7: The defence team argued that the recovery of only a limb without conducting DNA testing raised questions about the presumption that Kaushik Sarkar had died. Assess the court's interpretation of the principle of corpus delicti and suggest how the defence team could strategically leverage this aspect in future cases.

Options:

a) The court's interpretation of corpus delicti is irrelevant, and the defence should focus on other aspects of the case.

b) The absence of a recovered corpse is inconsequential, and the defence should emphasise this point in future cases.

c) Given the ambiguity in the court's treatment, the defence should avoid relying on the principle of corpus delicti in future cases.

d) The court's perspective on corpus delicti indicates that the absence of a recovered corpse is a significant gap, and the defence should focus on alternative forms of evidence to compensate for this deficiency.

e) The court's view on corpus delicti is unclear, leaving room for the defence to interpret and apply it based on the specifics of each case.

Explanation: Option (d) is correct. The court's perspective on corpus delicti suggests that the absence of a recovered corpse is a significant gap, and the defence should focus on alternative forms of evidence to compensate for this deficiency.

Question 8: The court emphasised the importance of establishing a motive in cases based on circumstantial evidence. As a legal analyst, discuss the potential challenges and benefits of relying on motive in circumstantial evidence cases. Additionally, provides recommendations on how legal strategies could effectively address the issue of establishing a motive in the absence of direct evidence.

Options:

a) Establishing a motive is crucial, and legal strategies should focus on presenting any plausible motive, even if it lacks substantial evidence.

b) The court's emphasis on motive is outdated, and future legal strategies should prioritise other aspects of circumstantial evidence.

c) Given the court's view, legal strategies should avoid relying on establishing a motive, as circumstantial evidence alone should be sufficient.

d) The court's emphasis on motive is crucial, and legal strategies should involve presenting a motive supported by substantial evidence to strengthen the circumstantial case.

e) The court's perspective on motive is unclear, leaving room for legal professionals to interpret and apply it based on the specifics of each case.

Explanation: Option (d) is correct. The court's emphasis on establishing a motive is crucial, and legal strategies should involve presenting a motive supported by substantial evidence to strengthen the circumstantial case.

Question 9: As a legal consultant, you are advising a defence team facing a similar case to Indrajit Das. The court highlighted the weakness of recoveries made in an open setting and their lack of exclusivity for the accused. Evaluate the court's stance on this issue and propose a strategy for the defence team to challenge the significance of such recoveries in future cases involving circumstantial evidence.

Options:

a) The court's treatment of recoveries made from an open place is irrelevant, and the defence should focus on other aspects of the case.

b) The court's view suggests that recoveries from an open place are crucial, and the defence should challenge the exclusivity aspect by presenting alternative interpretations.

c) Given the ambiguity in the court's treatment, the defence should avoid relying on the significance of recoveries made from an open place in future cases.

d) The court's perspective indicates that recoveries from an open place are inconsequential, guiding the defence to downplay their significance in future cases.

e) The court's position does not provide clear guidance on addressing the significance of recoveries made from an open place in future cases, leaving room for legal professionals to interpret its relevance based on the specifics of each case.

Explanation: Option (b) is correct. The court's view suggests that recoveries from an open place are crucial, and the defence should challenge the exclusivity aspect by presenting alternative interpretations.

Question 10: Assume you are preparing a legal memorandum on the court's treatment of extrajudicial confessions in cases based on circumstantial evidence. The prosecution intends to rely heavily on an extrajudicial confession made by the accused, despite its retraction during the trial. Discuss the court's position on extrajudicial confessions and provide recommendations on how the prosecution could address the issue of retractions to maintain the credibility of such confessions in future cases.

Options:

a) The court's treatment of extrajudicial confessions is inconsequential, and the prosecution should focus on other aspects of the case.

b) Extrajudicial confessions, even when retracted, are strong evidence, as per the court's view, and the prosecution should emphasise this point.

c) Given the ambiguity in the court's treatment, the prosecution should avoid relying on extrajudicial confessions in future cases.

d) The court's perspective indicates that extrajudicial confessions, especially when retracted, are weak evidence, guiding the prosecution to present strong corroborative evidence.

e) The court's view on extrajudicial confessions is unclear, leaving room for the prosecution to interpret and apply it based on the specifics of each case.

Explanation: Option (d) is correct. The court's perspective indicates that extrajudicial confessions, especially when retracted, are weak evidence, guiding the prosecution to present strong corroborative evidence.

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