

BLOGS

The Doctrine of Fruit of the Poisonous Tree : Can Illegally Obtained Evidence Be Used in Court?

Shruti chauhan · 10 Oct 2026

A police officer slaps a suspect until he "confesses". The suspect then leads the police to a field, where a knife is buried. The confession is tainted, but the knife is very real. Can the court use it?

That puzzle sits at the heart of the fruit of the poisonous tree doctrine, one of the most debated ideas in criminal law. If the way evidence was found was illegal, should the evidence itself be thrown out?

This post explains the doctrine in plain language, shows how the United States treats it, and reveals why India's answer is very different, and why it may be changing.

Under the fruit of the poisonous tree doctrine, evidence found through an illegal act is excluded from court. The US follows it, with exceptions. India generally does not, and admits relevant evidence even if it was illegally obtained, though courts can reject evidence that operates unfairly.

Why Is It Called a "Poisonous Tree"?

The metaphor is simple. The "tree" is the illegal act, such as a search without a warrant. The "fruit" is the evidence that grows out of it. If the tree is poisoned, the fruit is poisoned too.

The idea began in ***Silverthorn Lumber Co v United States (1920)***. Government agents illegally seized a company's papers and then tried to use what they had learned to demand the originals. The US Supreme Court said the government cannot profit from its own wrong.

The phrase itself was coined by Justice Frankfurter in ***Nardone v United States (1939)***, a wiretapping case. The doctrine extends the older exclusionary rule from *Weeks v United States* (1914), which bars evidence obtained directly through an illegal search. Its purpose is to deter police from breaking the law.

Let's Look at the Simple Example

Police search a flat without a warrant and find a locker key. The key leads them to a storage unit, where they find stolen goods.

The illegal search is the tree. The key is the first fruit, and the stolen goods are the second fruit. In the US, both could be excluded, because the whole chain began with an illegal act.

When Does the Poison Wear Off? Four Exceptions

The US doctrine is not absolute. Courts recognise four main exceptions.

Independent source: The same evidence was also found through a separate, lawful route.

Inevitable discovery: The police would have found the evidence anyway. In *Nix v Williams* (1984), a search party was already closing in on a victim's body, so the evidence was allowed.

Attenuation: The link between the illegality and the evidence is so thin that the taint has faded, as in *Wong Sun v United States* (1963).

Good faith: Officers relied honestly on a warrant that was later found defective, as in *United States v Leon* (1984).

Does India Follow the Fruit of the Poisonous Tree Doctrine?

Mostly, No.

India's starting point is relevance. If evidence is relevant and genuine, Indian courts have traditionally admitted it, without asking too closely how it was collected. The Privy Council took the same view in *Kuruma v The Queen* (1955).

In ***R.M. Malkani v State of Maharashtra* (1973)**, the Supreme Court held that a taped phone conversation, recorded without one party's consent, was admissible. The Court added that judges should examine such evidence with care and caution.

In ***Pooran Mal v Director of Inspection* (1974)**, a Constitution Bench held that even an illegal search does not make the seized evidence inadmissible. The Court did acknowledge that a future constitutional framework could force a re-examination.

In the Rafale proceedings in 2019, the Supreme Court again declined to shut out documents merely because of how they reached the Court.

There is one safety valve. In *Umesh Kumar v State of Andhra Pradesh (2013)*, the Court reiterated this position but said such evidence may be discarded if it operates unfairly against the accused.

India's Own Twist: The Knife in the Field

Now go back to our opening puzzle. The Evidence Act bars any confession made to a police officer under [Section 25](#). It also bars a confession made in police custody, unless it is made before a Magistrate, under [Section 26](#).

But [Section 27 of the Evidence Act](#) creates an exception. When a fact is discovered because of information given by an accused in police custody, the part of that information that relates distinctly to the discovered fact can be proved, whether or not it amounts to a confession.

These two rules now sit in [Section 23\(1\) and Section 23\(2\) of the Bharatiya Sakshya Adhiniyam, 2023](#), or BSA.

So the confession is the poisoned tree, and the knife is the fruit. Indian law lets the fruit in, together with the part of the statement that led to it. Courts justify this because the discovery itself confirms that the information was true.

The Privy Council explained the requirements in *Pulukuri Kottaya v Emperor* (1947). The person must be an accused, in police custody, and the fact must be discovered in consequence of the information. Only the portion distinctly connected to the discovery is admissible.

The BSA, in force since July 1, 2024, keeps this rule as the proviso to [Section 23\(2\)](#). It also adds no provision that bars illegally obtained evidence.

Is the Law Changing? Privacy Changes the Question

The old Indian cases were decided when privacy was not a recognised fundamental right. That changed in *Justice K.S. Puttaswamy v Union of India* (2017), which held that privacy is a fundamental right, protected as part of [Article 21](#).

Long before this, the Law Commission's 94th Report (1983) recommended giving courts discretion to exclude illegally obtained evidence if admitting it would bring the administration of justice into disrepute.

More recently, the Madras High Court in *P. Kishore v Secretary to Government* (2025) held that evidence obtained through unlawful intrusion on privacy, in an illegal wiretapping case, is inadmissible. Senior Advocate Manu Sharma has argued that Indian courts should now adopt the exclusionary principle.

The doctrine has also surfaced recently in the **Allahabad High Court**. In ***Ravi Chaurasiya v State of U.P.***, a Division Bench of Justices Atul Sreedharan and Achal Sachdev held, on September 28, 2026, that a man taken into custody on September 14 and formally arrested only on September 16 was illegally detained, in breach of [Article 21](#) and [Article 22](#). The Court treated the illegal detention as the poisonous tree, and the later arrest memo and judicial remand as its fruit, so they could not cure the illegality. It ordered his release and awarded compensation. Notably, the Court used the doctrine to protect personal liberty and not to exclude evidence.

India vs US

Point	United States	India
Basic rule	Evidence from an illegal act is excluded	Relevant evidence is admitted even if illegally obtained
Test	Was a constitutional right violated?	Is it relevant and genuine?
Exceptions	Independent source, inevitable discovery, attenuation, good faith	Courts may reject evidence that operates unfairly
Special rule	None on custodial discovery	Section 27 Evidence Act, now proviso to Section 23(2) BSA