

PRINCIPLES OF RELEVANCY AND ADMISSIBILITY UNDER THE INDIAN

LAW OF EVIDENCE

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ABSTRACT

Relevancy and admissibility are two popular concepts of Indian Evidence Act, 1872. For literal and common understanding both appear as same. However, principles of evidence attach different meanings and have different objectives underneath the concepts. The author here, tries to elucidate the concepts with cases laws, for the beginners of laws.

Keywords: Relevancy, Admissibility

INTRODUCTION

Law of Evidence is an important piece of legislation. It is used both for the civil as well as criminal side of laws. It helps both this primary branches of law. In civil realisation of right and criminal enforcement of punishments, the law of evidence helps. Not only the substantive legislations but also procedural laws like Code of Criminal procedure or Code of Civil procedure are assisted by the law of evidence. For a criminal trial or a civil proceedings, the law of evidence is sine qua non. The objective of the law of evidence is to assist the court in shifting the unnecessary chaffs of facts from the necessary grains of facts to save the time of court. For the prosecution or plaintiff to prove his case against the defendant or the state to prove a crime against the accused, the court considers what is necessary for the case. And what is necessary facts and what is necessary facts are determined by the court with the law of evidence. And for this the law of evidence has devised two key principles. One is relevancy and another is admissibility.

Relevancy and admissibility are often used words in the legal jargon. Both are inter-changeably used often times even the legal practitioners in the court of law. Both the concepts are foundation of the law of evidence.

MEANING AND PRINCIPLES OF RELEVANCY

Relevant is connectedness. Connected to something. Relevant is "Connected with what is happening, related to a subject or to something happening"[1]. It is "having significant and demonstrable bearing on the matter at hand"[2]. It also means "affording evidence tending to prove or disprove the matter at issue or under discussion"[3]. Collins Dictionary defines relevant as "the relevant thing of a particular kind is the one that is appropriate"[4]. The synonyms of relevancy are "applicable, apposite, apropos, germane, material, pertinent, pointed, and relative"[5]. Bentham states "one fact is relevant to another, if the effect or tendency of the former when presented to the mind, is to produce a persuasion concerning the existence of some other matter of fact [6].

"Relevant Evidence is evidence that makes a fact more or less likely to be true than it would be without the evidence (looking for probative value).. Relevancy exists as a relation between an item of evidence and a proposition sought to be proved[7]". Janab's in his Key to Evidence states "relevancy refers to the degree of connection and probative value between a fact that is given in evidence and the issue to be proved". As per Sir James Fitzjames Stephen, "relevant means any two facts to which it is applied are so related to each other that, according to the common course of events, either taken by itself or in conjunction with other facts, proves or renders probable past, present or future existence, or non-existence of the other"[8].

As per Indian Law of Evidence, relevancy, in short is, the fact which is coming under any of the provisions of chapter of relevancy, from section 6 to section 55. And Section 5 states as in relation what relevancy should be sought for under section 6 to section 55. It means, the relevancy of a fact should be to the fact in issue. A fact which is relevant to the fact in issue, if coming under any of the principles from section 6 to 55 is relevant. And since, section 6 to section 55 are statement of law, relevancy is question of law. Therefore relevancy is not a

statement of logic. Therefore, also relevancy is not a question of fact. Logically a fact may relevant to fact in issue, still it is not relevant unless and until it is coming under section 6 to section 55. Interestingly however, whatever logically relevant invariably becomes relevant under any of the section from 6 to section 55 as law of evidence has been drafted very meticulously. If a fact is existing or not, the judge decides it looking to medium of fact adduced by the witness before the court either orally or documentarily. So, facts are introduced before the court by the witness, orally or documentarily, and if it is not relevant, objection has to be raised by the opposing party, then and there. However, since the question of relevancy is a question of law, at any stage of the proceeding it can be agitated. It is advisable for the trial court to record in the order-sheet that as to what was the irrelevant fact adduced and what objection thereto was given by the opposite party, and the reason of declaring it relevant, if any, so that it can be scrutinised by the higher courts.

In an American case of *Knapp v. State*, the rule of law stated by the court was that "the determination of the relevancy of a particular item of evidence rests on whether proof of that evidence would reasonably tend to help resolve the primary issue at trial"[9].

In *L. C Bhatia v. State* the HC of Bombay, recasting various provisions of law of relevancy held as to which facts can be said to be relevant. They are, "facts necessary to explain or introduce a fact in issue or relevant fact; facts which support or rebut an inference suggested by a fact in issue or a relevant fact; facts which establish the identity of anything or person whose identity is relevant; facts which fix the time and place at which any fact in issue or relevant fact happened; facts which show the relation of parties by whom any fact in issue or relevant fact was transacted"[10].

MEANING OF ADMISSIBILITY

Admissibility means "n. the quality of being acceptable or valid, especially as evidence in a court of law"[11]. Admissibility involves the process whereby the court determines whether the Law of Evidence permits that relevant evidence to be received by the court. "Admissibility may refer to..evidence which may be introduced in a court of law"[12]. Admissibility means "n the fact of being considered satisfactory and acceptable in a law court"[13]. Admissibility, "the concept in the law of evidence that determines whether or not evidence can be received by the court. The evidence must first be relevant, but even relevant evidence will be tested for its admissibility"[14].

RELEVANCY AND ADMISSIBILITY

The concept of admissibility is often distinguished from relevancy. Relevancy is determined by logic and common sense, practical or human experience, and knowledge of affairs. On the other hand, The admissibility of evidence, depends first on the concept of relevancy of a sufficiently high degree of probative value, and secondly, on the fact that the evidence tendered does not infringe any of the exclusionary rules that may be applicable to it. Relevancy is not primarily dependant on rules of law but admissibility is founded on law. Thus, relevancy usually known as logical relevancy while admissibility is known as legal relevancy. Relevancy is a question of fact which is the duty of lawyers to decide whether to tender such evidence in the court.

The Supreme Court in *Ram Bihari Yadav vs. State of Bihar*, observed that "More often the expressions 'relevancy and admissibility' are used as synonyms but their legal implications are distinct and different for more often than not facts which are relevant are not admissible; so also facts which are admissible may not be relevant, for example, questions permitted to be put in cross-examination to test the veracity or impeach the credit of witnesses, though not relevant are admissible. The probative value of the evidence is the weight to be given to it which has to be judged having regard to the facts and circumstances of each case"[15].

A judge by using the power u/s 136 of the Act, can satisfy himself that whether a fact is relevant as well the manner in which it shall be proved so that it can be a relevant and then can admit it. It is the duty of the court to see all the relevant facts are allowed before the court in a case and also to exclude all irrelevant facts. The very beginning of the section of relevancy, section 5 itself states that evidence may be given in any suit or proceedings of the existence or non-existence of every facts in issue and of such other..facts as hereinafter will be declared to be relevant, and of no others. In fact, the question of relevancy is of great nicety and sometimes, great difficulty is felt by the Trial Judge in deciding question of relevancy. Therefore, it is desired that in doubtful cases, he should admit rather than excluding the evidence".

It may be "emphasized that when such evidence is rendered admissible by the Evidence Act and when it is a well recognized exception to the rule against hear-say, only because direct evidence would also be available, the evidence does not become inadmissible"[16].

In general, a relevant fact given in evidence under Section 5 to 55 is admissible in the court. However, a relevant fact under Section 5 to 55 may not be admissible if the other sections of the Act do not permit it to be received by the court. These are the main exclusionary rules in the Act which excluded the admissibility of a relevant fact. Hearsay statement, confessions, evidence of the defendant character, exclusion of evidentiary facts by estoppel and exclusion of privileged communication.

For instance, a confession obtained by any inducement, threats or promise is not admissible under Section 24. A confession to the police officer below the rank in Inspector is not admissible under Section 25. Confession by accused while in custody of police is also not admissible under Section 26 even though it is relevant. For example a murderer confessed before the police officer that he had killed the victim, it is though relevant is not admissible and shall be hit by Section 25. In the same example, suppose the murderer confessed not to the police officer by while he was in the police lockup confessed the commission of murder to another fellow prison inmate. He again, even if the confession is not made to the police officer still the confession shall be hit, this time u/s 26, as the confession is made in the custody of police officer, be it to third party.

An irrelevant fact is not admissible in the court. However, in certain cases, evidence, which is not relevant under Section 5 to 55 may nonetheless be admissible. Examples include: Statement of relevant fact by person who is dead or cannot be found: Section 32. Impeaching credit of witness: Section 155. Former statements of witness may be proved to corroborate later testimony as to same fact: Section 157.

"Whether a document is relevant and admissible in evidence or not is a question governed by the Evidence Act and how it should be produced in Court and how it should be dealt with by the Court are questions of procedure governed by the Code of Civil Procedure. The Evidence Act does not deal with the procedure relating to documents offered in evidence"[17].

CONCLUSION

Relevancy and admissibility are two sides of the coin. It is the duty of the court to include the relevant evidence as well as to exclude the irrelevant evidence.

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