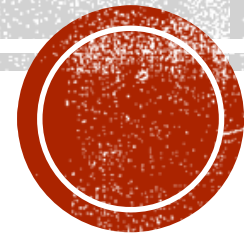


WITNESS BEHAVIOUR

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BHARWADA BHOGINBHAI

HIRJIBHAI

VS.

STATE OF GUJARAT,

(1983) 3 SCC 217



A witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.



Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.



The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.



By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape-recorder.



In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess-work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.



Ordinarily a witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.



A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub-conscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him — Perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment.”



**LEELA RAM (DEAD) THROUGH
DULI CHAND**

VS.

STATE OF HARYANA

(1999) 9 SCC 525



Different witnesses react differently under different situations: whereas some become speechless, some start wailing while some others run away from the scene and yet there are some who may come forward with courage, conviction and belief that the wrong should be remedied. As a matter of fact it depends upon individuals and individuals. There cannot be any set pattern or uniform rule of human reaction and to discard a piece of evidence on the ground of his reaction not falling within a set pattern is unproductive and a pedantic exercise.



One hardly comes across a witness whose evidence does not contain some exaggeration or embellishment — sometimes there could even be a deliberate attempt to offer embellishment and sometimes in their over anxiety they may give a slightly exaggerated account. The court can sift the chaff from the grain and find out the truth from the testimony of the witnesses. Total repulsion of the evidence is unnecessary. The evidence is to be considered from the point of view of trustworthiness.



STATE OF UP
VS
M K ANTHONY
(1985) 1 SCC 505



- While appreciating the evidence of a witness the approach must be to ascertain whether the evidence of the witness **read as a whole** appears to have a **ring of truth**.
- Once that impression is formed, then the court should scrutinise the evidence more particularly to find out whether deficiencies, drawbacks and other infirmities pointed out in the evidence is against the general tenor of the evidence.
- Minor discrepancies on trivial matters not touching the core of the case should not be given undue importance.



- **Even truthful witnesses may differ in some details unrelated to main incident because power of observation, retention and reproduction differ with individuals.**
- **Cross Examination is an unequal duel between a rustic and a refined lawyer.**



STATE OF UP VS. NARESH

(2011) 4 SCC 324

- 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 also make material improvement while deposing in the court, it is not safe to rely upon such evidence.
- 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 to rejected the evidence in its entirety.



STATE OF PUNJAB VS GURMIT SINGH

(1996) 2 SCC 384

- **In Cases of sexual assault conviction can be founded on the sole testimony of the victim unless there are compelling reasons for seeking corroboration.**
- **Seeking corroboration as a rule amounts to adding insult to injury.**
- **The court may look for some assurance of her statement to satisfy its judicial conscience .**
- **She is not an accomplice.**



HIMANCHAL PRADESH VS SANJAY KUMAR

(2017) 2 SCC 51

- **Cases of child sexual assault must be dealt with utmost sensitivity.**
- **The court must take stock of the realities of life that prevail in Indian social milieu.**
- **Indian women are slow and hesitant to complain of sexual assault.**
- **Delay of three years in reporting the matter was not found fatal in this case.**



Thank you

