

SUPREME COURT REFERENCER ON CRIMES

**AZIZ AHMED
SIDDIQUI**

**THE LAWYERS HOME
INDORE-7**

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By
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DEDICATED TO THE MEMORY OF MY BELOVED FATHER



1896 — 1976

Lt. Col. (Hon.) Dr. Sultan Ahmed.
Retd. Civil Surgeon, Bhopal

“It takes only a little space
To write how much we miss you
But it will take the rest of
our lives to forget the day we lost you”

Aziz Ahmed Siddiqui

PREFACE

The makers of Criminal law left a lot to be exploited by the lawyers of India. Much has been said and written in the interpretation of criminal law in our Hon'ble Supreme Court. What remains is history for every one. 'Smrities and Srutis' about the important decisions of the Supreme Court are not enough. What is more important for the Bench and the Bar is the actual knowledge and location of the cases. To sum up, all the important, immortal, decided and reported cases in a nut-shell, I take the liberty in presenting to every reader this book.

When I started penning down this book, the foremost thought which struck me was the needs of the judges and the lawyers in handling a case. It has been my endeavour to bring in all the facts and details in the most outstanding cases covering the Indian Penal Code, Code of Criminal Procedure and the Evidence Act. As the reader proceeds one will find in chronological order, every circumstances of relevant sections with citations of Supreme Court. Fact is provided with a head-note which simplifies the task of the Court officials in application of law.

Reading between the lines of the book, one could visualise just sitting in room, the change of scene in the views of the Supreme Court. The change reflects the dynamism which is vitally essential for justice in an ever-moving society.

The Bench and the Bar can use this book for an on-the-spot study in the Court room. The authenticity of this hand-book would prove a hall-mark for case study. As one of my colleague quoted that this book appears to be the mouth-piece of the Supreme Court.

Looking at the growing inflation of the Indian economy; the price of this book would be a pinch on the purse. The book is marketed on a no-profit basis.

Before concluding I cannot forget my junior colleagues Shri Mehboob Ansari, Shakeel Ahmed, Robert Anthony, and Avinash Katyayani Advocates who have rendered their valuable assistance in writing of this book. I am also thankful to Shri B.L. Maithil who rendered valuable services in bringing out this book.

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CASES APPEARED DURING THE PRINTING OF THE BOOK

Appreciation of Evidence

Minor discrepancies and suspicious approach in assessing the evidence of the prosecution witnesses. Assessment of the Sessions Judge unjustified. Accused convicted.

By Hon'ble Justice Thakkar, J. Para 6:

The evidence clearly establishes that all the four persons were concerned in the act of throwing the victim on the road in front of the Deli. Ofcourse no prosecution witness could have witnessed what transpired inside the Deli because the doors of the Deli were closed after Nabha Ram was dragged inside. Appellants were acting in concert and were associated with each other in initially dragging Nabha Ram inside the Deli and also in throwing out Nabha Ram on the road in front of the Deli after he was assaulted inside the Deli.

Aher Pitha Vajshi & others V. State of Gujarat, AIR 1983 SC 599=1983 Cr. L.J. 1049=(1983) 1 Crimes 1067=1983 SCC (Cri.) 607=1983 Cri. App. R 339.

Discrepancies minor. Cannot be annexed with undue importance.

By Hon'ble Justice Thakkar, J.—Para 6 :

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

Bharwada Bhogin Bhai Hirji Bhai V. State of Gujarat, AIR 1983 SC 753 1983 Cr. L.J. 1096 (1983) 3 SCC 217 (1983) 2 Crimes 232 1983 Cri. App. R 343 1983 SCC (Cri.) 728.

Mere relationship will not be sufficient to discard their evidence straight way.

By Hon'ble Justice Fazal Ali, J.—Para 5 :

The mere fact that the witnesses were relations or interested would not by itself be sufficient to discard their evidence straightway unless it is proved that their evidence suffers from serious infirmities which raises considerable doubt in the mind of the Court.

State of Gujarat V. Nagin Bhai Dhula Bhai Patel, AIR 1983 SC 839-1983 Cr. L.J. 1112 (1983) 3 SCC 316-1983 SCC (Cri.) 590 (1983) 2 Crimes 332.

Informant (mukhbhir) not examined. The evidence of the witness who was informed is not admissible in evidence.

By Hon'ble Justice Varadarajan, J.—Para 13 :

The prosecution relied on the evidence of P.W. 12 to show that he had received information in the evening of 12-9-1970 that from Banda the truck G.T.D. 4098 would be carrying liquor to Ahmedabad and that accused No. 3 and 4 and some other persons would be coming in a Taxi behind the truck. Since the informant has not been examined as a witness the evidence of P.W. 12 that he was

informed that accused No. 3 and 4 would be coming behind the truck in a taxi is not admissible.

Bhugdomal Gangaram & others V. State of Gujarat, AIR 1983 SC 906 1983 Cr. L.J. 1276 1983 Cri. App R 413 (1983) 1 Crimes 1070 1983 UJ (SC) 722.

Mere fact that witnesses are interested is no ground for throwing out their evidence aboard.

By Hon'ble Justice Fazal Ali, J.—Para 14 :

The last reason given by the High Court in rejecting the evidence of P.W. 2 is that the deceased was his class-fellow and therefore, he could not be said to be a disinterested witness. Even so, the High Court seems to have overlooked the fact that the witness clearly stated at page 16 of the Paper Book that he was also a class-fellow of one of the accused/respondent, Surendra. Thus, far from being interested, the witness seems to be a common friend of the deceased and the accused and, therefore, is not likely to depose falsely against one or the other.

State of U.P. V. Hari Ram, AIR 1983 SC 1081 1983 Cr. L.J. 1638 (1983) 4 SCC 453 (1983) 2 Crimes 829.

Witnesses independent, their must be strong ground to disbelieve them.

By Hon'ble Justice Fazal Ali, J.—Para 3 :

Where witnesses are not interested and where there is no motive for false implication there must be strong ground to disbelieve them.

Abdul Razaq V. Nanhe and others, AIR 1984 SC 452 1984 Cr. L.J. 185.

Letter written by the Superintendent of Police to his administrative superior—No opportunity given to the defence to cross-examine the writer. No reliance could be placed on such documents.

By Hon'ble Justice Rangnath Misra, J.—Para 6 :

So far as the other document is concerned, as already by us, it is a letter written by the Superintendent of Police to his administrative superior. The writer of the letter has not been examined as a witness. No opportunity has been given to the defence to cross examine the writer. To rely on the contents of the letter in such circumstances is totally misconceived.

Vinod Chaturvedi V. State of M.P. AIR 1984 SC 911.

Direct evidence satisfactory, cannot be rejected on hypothetical medical evidence.

By Hon'ble Justice D.A. Desai, J.—Para 2 :

The only contention raised was that medical evidence is inconsistent with the direct testimony. This contention must fail for the reason that if direct evidence is satisfactory and reliable the same cannot be rejected on hypothetical medical evidence.

Punjab Singh V. State of Haryana, AIR 1984, SC 1233 1984, Cr. L.J. 921, (1984) 1 Crimes 859.

Abetment Nil

Absconding Nil

Abduction:

Deceased came from his house properly dressed to accompany the accused persons. There is no Abduction.

By Hon'ble Justice Ranganath Misra, J—Para 7 :

Some witnesses had deposed that Vinod the main architect of the incident came armed with a Gun while others claim that he was armed with a Lathi. There is considerable divergence in the evidence as to whether Brindaban came into the jeep of his own accord or had been forcibly put into it. Most of the witnesses have stated that on being persuaded by the accused persons and Vinod in particular, he went inside his house and came properly dressed to accompany the group to Village Rampura. In that event, it cannot be said that Brindaban was abducted by the accused persons.

Vinod Chaturvedi V. State of M.P. AIR 1984, SC 911.

Acquittal

F.I.R. Delayed. Dye witness account discrepant. Acquittal justified.

By Hon'ble Justice Venkataramiah, J.—Para 12 :

The comments by the High Court on the evidence of the doctor appears to be more severe than what it should have been particularly when it was possible that the death in this particular case was instantaneous is not seriously challenged. In the circumstances of this case, the scope for exaggeration on the part of the prosecution witnesses involving innocent persons cannot also be ruled out. As we have pointed out earlier, the High Court has missed some important discrepancies in the prosecution case. Bearing in mind the well settled principles governing a case of this nature we feel that it would be unsafe to act upon the evidence of Suraj Bai (P.W. 2) and convict the accused. In the circumstances; the High Court was in error in upsetting the verdict of acquittal recorded by the Trial court.

Ramji Surjya & others V. State of Maharashtra AIR 1988 SC 810-1983, Cr. L.J. 1105 (1983) 3 SCC 629 1983 SCC (Cri) 748 (1983) 2 Crimes 237 (1983) 2 SCJ 20—1983 Cri App R. 313.

Serious enmities between the parties. Acquittal justified.

By Hon'ble Justice Ranganath Misra, J—Para 4 :

The fact that the alleged eye witnesses were prepared to implicate the 5 persons who were acquitted on the earlier occasion and the present appellants on the subsequent occasions in a serious charge like murder is indicative of the fact that no credence can be given to the evidence of these witnesses and they were willing to lend their oath to another story that the prosecution advanced. Once the evidence of P.Ws. 1, 3 and 24 is brushed aside on that ground, the residue by itself would not be adequate to support the charge. We have grave doubts where the High Court in whose hands there has been a reversal of the acquittal would have found the remaining evidence to be good basis for the conviction.

Vinod Chaturvedi V. State of Madhya Pradesh, AIR 1984, SC 911

Bail Nil

Benefit to Doubt: Nil

Burden of Proof:

An aggressor cannot claim the right of self defence.

By Hon'ble Justice Venkataramiah, J.—Para 27 :

A person who is an aggressor and who seeks an attack on himself by his own aggressive attack cannot rely upon the right of self defence if in the course of transaction he deliberately kills another whom he had attacked earlier.

State of U.P. V. Pussu, A.I.R. 1983, SC 867=1983 Cr. L.J. 1356=(1983) 3 SCC 502=1983 (Cri.) 713=1983 Cri. App. R 383.

Circumstantial evidence-Nil

Common intention

The other 3 appellants accompanied appellants Surjeet Singh on mid-night and committed murder. Common intention established.

By Hon'ble Justice Murtazā Fazal Ali, J.—Para 3 :

It was also contended by Mr. Mulla that so far as the other appellants are concerned they should be convicted only U/S 323, I.P.C. because they had assaulted with the blunt side of the Gondasa and inflicted only simple injuries. We are unable to accept the document because once it is found that the appellants were aminated by a common intention to cause the death, Section 34, I.P.C. would be attracted particularly when the other 3 appellant accompanied appellant Surjeet Singh at mid-night and undoubtedly to kill the deceased Dhan Kaur.

Surjeet Singh & others V. State of Punjab, AIR 1983 SC 838—1983 Cr. L.J. 1111, (1983) 3 SCC 565—1983 SCC (Cri) 745, 1983 Cri App. R 377.

Confession

Mere recovery of an incriminating fact would not be sufficient to convict the accused.

By Hon'ble Justice Chandrachud, C.J.—Para 7 :

The evidence regarding recovery of a pistol, Ex.6, from accused Ram Vishal is less unacceptable than the evidence of the recovery of the gun from Sunder, but considering the large masses of useless evidence which the prosecution lead this single circumstance will not be safe to act upon for convicting the one out of 11 accused viz. Ram Vishal.

State of U. P. V. Jageshwar & others, AIR 1983 SC 349—1983 Cr. L.J. 686, 1983 Cri App R 242—(1983) 2 SCC 305 (1983) 1 Crimes 978—1983 SCC (Cri) 427.

Recovery memo of discovery, mode and manner how to be recorded.

By Hon'ble Justice Desai, J.—Para 5 :

It is obligatory upon the investigating officer to stay and record who gave the information: when he is dealing with more than one accused, what words were used by him so that a recovery to the information received may communicated to the person giving the information so as to provide incriminating evidence against the person.

Mohd. Abdul Hafeez V. State of Andhra Pradesh, A.I.R. 1983, SC 367—1983 Cr. L.J. 689, 1983 SCC (Cri) 139—1983 UJ 145; 1983 Cri App R 25.

Defence

Nil

Dying Declaration

Nil

Expert evidence Nil

Injuries to accused Nil

Intention

Injuries on the buttock could not be indicative of user of third degree method

By Hon'ble Justice Tulzapurkar, J.—Para 9 :

In the first place there were only 2 injuries, namely No. 22 No. 23 which could properly be regarded as injuries on the soles of the two feet of the deceased, which may be indicative of the Police within third degree methods. But the injuries on the buttock could not be indicative of user of third degree methods, for, once a thief is caught by villagers for the purpose of giving a sound beating he may as well fall flat on the ground and the villagers could beatings on his buttocks.

Ramchander & others V. State Haryana, AIR 1983 SC 817—1983 Cr. L.J. 1072 (1983) 2 SCC 385—(1983) 2 Crimes 223 1983 Cri App R 326—1983 SCC (Cri) 628.

Intention to commit murder present. Offence is 304, Part, 2, I.P.C.

By Hon'ble Justice D. A. Desai J.—Para 12:

Probably when the deceased Sampat told the accused not to misbehave in the presence of ladies and not to use vulgar and filthy language, the appellant retorted by questioning the authority of Sampat and asked him to leave the place. Presence of Sampat is wholly accidental. Altercation with Sampat was on the spur of the moment. Accused convicted U/S 304, Part 2.

Tholan V. State of Tamil Nadu, AIR 1984, SC 759—1984 Cr. L.J. 478 (1984) 2 SCC 133.

Right of private defence

Nil

Sanction

Nil

Inimical & interested witness

See in appreciation of evidence,

Partisan Witness

See in appreciation of evidence.

Order for maintenance of Wife,

Children and parents

Nil

Disputes as to immovable property

(Section 145 CR. P.C.)

Nil

First Information Report.

No rule of law stipulates that an accused whose name is not mentioned in a F.I.R. is mentioned to acquittal.

By Hon'ble Justice Chandrachud, C. J.—Para 7:

The first information report lodged by Inder Singh P.W. 15 mentions the names of accused Nos. 2, 3, 8 and 9 only. The fact that the names of the other accused are not mentioned in the F.I.R. was atleast a circumstance which the

prosecution had to explain, though no rule of law stipulates that an accused whose name is not mentioned in a F.I.R. is entitled to an acquittal.

Darshan Singh & others V. State of Punjab, AIR 1983, SC 554—1983 Cri. L.J. 985 1983 Cri APP R 264—(1983) 1 Crimes 1059 1983 Cri LR 235—(1983) 2 SCC 411.

Extra-ordinary delay in giving the F.I.R. must be explained otherwise can be viewed with suspicion.

By Hon'ble Justice Venkatarmiah, Para 5.

In this case the prosecution have attempted in the course of the evidence to explain away the delay but in giving the information to the Police out-post which was merely 24 hours from the time at which the occurrence is stated to have taken place by stating that Suraj Bai (P.W.2) did not want such information to be lodged with the Police until the arrival of Ratan Singh such according to the prosecution, took place at 5.00 P.M. on March 27, 1974. The attempt of the prosecution to explain away the delay has failed in the instant case since we have several different versions about the lodging of the information with the Police Out-Post and the earlier versions of the crimes said to have been given by Suraj Bai, which are in writing, appear to have been suppressed in this case. This extra ordinary delay in giving the first information to the Police in the present case which has not been properly explained cannot but be viewed with suspicion.

Ramji Surfya & others V. State of Maharashtra, AIR 1983 SC 810—1983 Cri L.J. 1105 (1983) 3 SCC 629—1983 SCC (Cri) 748 (1983) 2 Crimes 237—1983 Cri App R 313.

Statement recorded by Magistrate during investigation

Nil

Procedure when investigation can

not be completed in 24 hours

Nil

Revision

Nil

Provision as to bail

The trend today is towards granting bail

By Hon'ble Justice D. A. Desai, J.—Para 6 :

The High Court completely over looked the fact that it was not for it to decide whether the bail should be granted but the application before it was for cancellation of the bail. Very cogent and other overwhelming circumstances are necessary for an order seeking cancellation of the bail and the trend today is towards granting bail because it is now well settled by a catena of the decisions of the Court that the power to grant bail is not to be exercised as if the punishment before the trial is being imposed. The only material considerations in such a situation are whether the accused would be really available for his trial and whether he is likely to abuse discretion in his favour by tempering with evidence.

Bhagirath Singh Jadeja V. State of Gujarat, AIR 1984 SC 372—1984 Cr.L.J. 160.

Right of private defence	See in appreciation of evidence
Prevention of Corruption	See burden of proof
Robbery	See burden of proof
Culpable homicide not amounting to murder and culpable homicide amounting of murder	See appreciation of evidence
Attempt to commit murder	Nil
Abduction	See appreciation of evidence
Extortion, robbery and dacoity	Nil
Criminal misappropriation, Criminal breach of trust cheating, mischief	Nil
Evidence Resgestae	Nil

Identification Parade:

Identification of large group of person at dead of night in the light of a tiny Kerosine lantern is highly unlikely. Identification rejected.

By Hon'ble Justice Chandrachud, C.J.—Para 4 :

In the basic defect which we find in accepting the evidence of Sundi and other 4 eye witnesses on the question of identification of the accused is that, according to these witnesses, as many as 14 or 15 persons had taken part in the 4 murders at dead of night. Every one was in their soundly asleep and the people around work up, according to their own evidence, I think on hearing the sound of gun-shots or the crying and the wailing. Apart from the inherent defect involved in identifying a large group of 14 or 15 persons at dead of night in the light of a tiny kerosine lantern, it is highly unlikely that the accused would continue to remain at the scene of the offence after committing the murder.

State of Uttar Pradesh V. Jageshwar & others, A.I.R. 1983 SC 34=1983, Cr. L.J. 686=1983 Cri. App R 242=(1983) 2 SCC 305=(1983) 1 Crimes 978=1983 SCC(Cri.) 427.

Ladies have sense of identifying their own belongings. Identification accepted.

By Hon'ble Justice A.P. Sen, J.—Para 12 :

It is a matter of common knowledge that ladies have an uncanny sense of identifying their own belongings, particularly articles of personal use in the family. That apart, the description of the silk saris in question shows that they were expensive saris with distinctive designs.

Earabhadrapa V. State of Karnataka, A.I.R. 1983 SC 446=1983, Cr. L.J. 846=(1983) 1 Crime 784=(1983) 1 SCC 330=1983 Cri. App. R 232=1983 (Cri.) 447.

Villagers get accustomed to seeing things in the light shed of the lantern. Identification accepted.

By Hon'ble Justice Thakkar, J.— Para 5 :

Villagers living in villages where electricity has not reached as yet, get accustomed to seeing things in the light shed by the lantern. Their eye sight gets

condition and becomes accustomed to the situation. Their power of seeing are, therefore, not diminished by the circumstance that the incident is witnessed by the circumstance that the incident is witnessed in the light shed by the lantern and not electricity light.

Machhi Singh & others V. State of Punjab, A.I.R. 1983 SC 957=1983 Cr. L.J. 1457=(1983) 3 SCC 470=(1983) 2 Crimes 268=1983 SCC (Cri.) 681.

Discovery

— See appreciation of evidence.

Dying Declaration

— Nil

Expert Evidence :

Eye witness account reliable. Cannot be contradicted with medical evidence.

By Hon'ble Justice Misra, J.—Para 12 :

Ordinarily, the value of medical evidence is only corroborative. It proves that the injuries could have been cause in the manner alleged and nothing more. The use which the defence can make of the medical evidence is to prove that the injuries could not possibly have been caused in the manner alleged and thereby discredit the eye witnesses. Unless, however, the medical evidence in its turn goes so that it completely rules out all possibilities whatsoever of injuries taking place in the manner alleged by the eye witness. The testimony of the witnesses cannot be thrown out on the ground of alleged inconsistency between it and the medical evidence.

Solanki Chiman Bhai Uka Bhai V. State of Gujarat, A.I.R. 1983 SC 484=1983 Cr. L.J. 822=(1983) 2 SCC 174=(1983) 1 Crimes 625=1983 SCC (Cri.) 379=1983 Cri. App. R. 189=1983 UJ 401.

Burden of Proof

— See appreciation of evidence.

Presumption

— Nil

Hostile Witnesses

— Nil

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SUPREME COURT REFERENCER ON CRIMES

APPRECIATION OF EVIDENCE

Mere Relationship is no criteria to reject his evidence

By Hon'ble Justice Bose, J.—Para 26 :

"A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true when feelings run high and there is personal cause for enmity, there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of the relationship for from being a foundation is often a sure guarantee of truth."

Dalip Singh and others V. State of Punjab, AIR 1953 SC 364—1953 Cr. L.J. 1465.

Defence of accused must be considered

By Hon'ble Justice Bose, J.—Para 26 :

"It is our desire to depart from usual practice of declining to re-assess the evidence in an appeal here but because there has been in this case a departure from the rule that when an accused person puts forward a reasonable defence which is likely to be true, and in addition is supported by two prosecution witnesses then the burden on the other side become all the heavier because a reasonable and probable story likely to be true when pitted against a weak and vacillating case is bound to raise a reasonable doubt of which the accused must get the benefit."

Hate Singh V. State of Madhya Bharat, AIR 1953 SC 468—1953 Cr. L.J. 1933.

Defence given at the earliest, Defence was likely to be true

By Hon'ble Justice Jagannadhas, J.—Para 11 :

"Having regard to the nature and contents of the letter and the fact that it has been sent by the registered post next day from a different place—probably at a distance—called Daulatpur as indicated by stamping on the registered envelope thereof, we are not able to share the view that there was time enough for concocting such a false defence in this letter. To our mind the very fact that the defence was given out at such an earlier stage and that it has, to such a large, extent been corroborated is a strong reason for thinking that the defence was very likely to have been true."

Bhagatram V. State of Punjab, AIR 1954 SC 621—1954 Cr. L.J. 1645.

No duty of the defence to fill up the Lacuna left by the Prosecutor*By Hon'ble Justice S.R. Das, J.—Para 5 :*

"Again, where one witness does not corroborated another witness in material particulars the High Court puts the blame on the advocate for the appellant for not having put the statement of a previous witness to a subsequent witness."

"We do not think it is any part of the duty of the defence advocate to fill up the lacuna in the evidence adduced by the prosecution. A good deal of weight was placed by the High Court on what has been described a confessional statement of the appellant contained in the 3 chits Ex. 1, 2 and 5."

Bonsidhar Mohanty V. State of Orissa, AIR 1955 SC 585=1955 Cr. L.J. 1300.

Witness roused from the sleep. It is difficult in the dark night to identify*By Hon'ble Justice Sinha, J.—Para 7 :*

"In the present case we find that the evidence of the 3 witnesses aforesaid on which the case against the appellant depends is not free from the blemish that they have been more emphatic in their assertions than the circumstances of the case would justify. They were roused from the sound sleep by the alarm raised in the first instance by the dying man so far as PW 1 is concerned and PW 1 himself so far as the other witnesses evidence goes. When they were suddenly roused from the sleep in the early part of the dark night without any previous apprehensions it would be difficult for them to notice what they claim to have clearly observed. As already indicated it is a case of their convincing themselves, however honest they may have been, that the two accused were the persons concerned in the crime without having clearly seen them or being able to see them. At any rate in the case of the first witness for the prosecution who stated the theory on which the prosecution case is based, his eye sight appears to have been too dim to enable him to see clearly in the dark night as he claims to have done that the two accused had dealt the fatal blows. If the basic evidence of PW 1 is subject to reasonable doubt as to its correctness, as we think it is, there is no difficulty in viewing the evidence of PWs 4 and 5 with the same doubt."

Mohinder Singh V. State of Punjab, AIR 1955 SC 762=1955 Cr. L.J. 1542=1956 SCC 53.

Two views possible one which is favourable to accused must be accepted*By Hon'ble Justice Bose, J. Para 9 :*

"Now it may be possible to take two views of this statement but there are two important factors in every criminal trial that weight heavily in favour of an accused person; one is that the accused is entitled to the benefit of every reasonable doubt and the other, an off-shoot of the same principle, that when an accused person offers a reasonable explanation of his conduct, then, even though he cannot prove his assertions, they should ordinarily be accepted unless the circumstances indicate that they are false."

Aher Raja Khima V. State of Saurashtra, AIR 1956 SC 217=1956 Cr. L.J. 421=1955 2 SCR 1285=1956 SCJ 243=1956 SCA 440.

Circumstantial Evidence the conviction for the offence u/s 243 IPC however cannot be sustained on the evidence as it stands on the record.

By Hon'ble Justice Bhagwati, J.—Para 10 :

"It is a fundamental principle of criminal jurisprudence that circumstantial