



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2024 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## Unveiling the Importance of Eyewitnesses and their Credibility in the Indian Criminal System

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Received 19 March 2024; Accepted 23 April 2024; Published 27 April 2024

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*Eyewitness evidence has long been an essential part of criminal trials, aiding in the conviction of criminals. Studies, however, have revealed that eyewitness evidence is not always reliable and might lead to incorrect convictions on occasion. It is essential to comprehend the reliability and validity of eyewitness testimony as well as the factors that could affect its accuracy. How reliable are eyewitness accounts Reliability is the term used to describe the constancy and stability of eyewitness testimony across time. Contrary to popular opinion, eyewitness testimony is generally less reliable, as researchers have found. False information such as probing questions from law enforcement or the media may be presented to witnesses, altering their recollections of an incident. When witnesses experience anxiety or stress, it might be difficult for them to accurately recall the specifics of an incident. The purpose of this paper is to examine and evaluate two significant influencing elements that impact factors affecting memory reliability: the eyewitness's mental state and their statement admissibility. This paper examines the components that make these witnesses more reliable and legitimate. In criminal prosecutions, eyewitness testimony should be included; but, to ensure the most accurate representation of the events, it needs to be evaluated in combination with other forms of evidence.*

**Keywords:** *eyewitness testimony, memory, admissibility, reliability.*

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## **INTRODUCTION**

One of the most crucial types of evidence in criminal cases is eyewitness testimony, which judges rely on to make decisions. However, studies have indicated that eyewitness evidence is not always trustworthy and that several factors might affect how accurate eyewitness statements are. The witness's memory is one of the most significant variables that can affect how accurate their testimony is to rely upon. Memory is a reconstruction of past experiences based on the information recorded at the time and any subsequent processing or manipulation of that information. Thus, the accuracy of eyewitness testimony can be affected by various factors, such as the witness's emotional state, prior expectations, biases, and level of attention at the time of the incident; additionally, the way the witness is questioned or interviewed about the event can also have an impact. Studies have indicated that the use of suggestive questioning techniques, leading questions, or other forms of coercion or manipulation can lead to false or inaccurate testimony.

## **STATEMENT OF PROBLEM**

The Admissibility and Reliability of Eyewitness Testimony in Criminal Trials as it amounts to a piece of direct evidence that can lead to a person's conviction. So, the admissibility of these eyewitness testimonies is being considered in this research project. Also, the reliability of these witnesses as it is common in human memory tends to forget the instance with time. As the criminal trials in India take a decade to deliver justice these eyewitnesses can be easily influenced.

## **OBJECTIVES**

- To understand the 'The Admissibility and Reliability of Eyewitness Testimony in Criminal Trials'.
- To understand the evidentiary value of Section 3 of IEA 1872.
- To understand the judicial trend concerning eyewitness admissibility and reliability.

## RESEARCH METHODOLOGY

The research method adopted by the researchers is the doctrinal method. The researcher would study the Constitution, case laws, articles, books, and databases as part of the research.

## CONCEPT OF ADMISSIBILITY OF TESTIMONY

The eyewitness testimony is examined under Section 3(1) of the Indian Evidence Act. This provision states that eyewitnesses account under oath, which has a significant evidentiary value under IEA. Under Section 164 of the Criminal Procedure Code, all witness statements are being recorded as evidence. The statements are taken under oath, followed by a process of examination in chief, cross-examination, and re-examination of eyewitnesses.

Eyewitnesses are the most trustworthy witnesses in criminal cases according to the law. As established in *Krishna Ram v State of Rajasthan*<sup>1</sup>, the veracity and reliability of an eyewitness statement remain unaffected even if the statement results in the conviction of some accused parties and the acquittal of others.

The Hon'ble Supreme Court ruled in *Pratap Chauhan v Ram Naik*<sup>2</sup>, that an eyewitness statement cannot be disregarded due to erroneous connotations before carefully and cautiously reviewing the evidence. The court further ruled that an eyewitness's testimony cannot be disregarded due to slight discrepancies.

In *Bhagwan Singh and Others v State of Madhya Pradesh*<sup>3</sup>, the trial court has taken a view ignoring that testimony evidence, a duty is cast upon the HC to reappraise the pieces of evidence in an appeal. In the instance case, the trial court acquitted the accused person by not relying upon the testimony of the three eyewitnesses on considering which appeared to be unnecessary. The High Court had ascribed valid reasons for believing the statement of those witnesses by pointing out the illegality. The court set aside the order of 'Acquittal' that a related

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<sup>1</sup> *Krishna Ram v State of Rajasthan* (1993) SCC (Cri) 387

<sup>2</sup> *Pratap Chauhan v Ram Naik* 2001 (9) SCC 266

<sup>3</sup> *Bhagwan Singh and Others v State of Madhya Pradesh* (2002) 4 SCC 85

witness' testimony could not be disregarded based alone on the witness's relationship with the victim.

The court must carefully consider the evidence when there is a relationship between the witness and the deceased. The *State of Uttar Pradesh v Jagdeo*<sup>4</sup>, case established that a witness's testimony cannot be disregarded based only on their relationship to the deceased, provided that the witness's testimony is consistent and corroborated by other witnesses.

*Vikas Kumar Roorkeval v State of Uttarakhand & Ors*<sup>5</sup>, in this landmark the Supreme Court states, that the involvement of eyewitnesses serves a vital role in the 'Criminal Justice System' and that any legislation about witnesses upholds the essential idea of a fair trial.

Regarding child witnesses, there is no legal provision that disqualifies credible testimony. A child is considered a competent witness in the case of *Alagupandi v State of T.N.*<sup>6</sup> if their testimony is trustworthy, accurate, and supported by other prosecution evidence. In *Edward v Inspector of Police*<sup>7</sup>, the Supreme Court ruled that an eyewitness's statement is reliable evidence, even if it deviates from medical data.

The judicial trend that the court has followed in past 3 decades related to admissibility is the admissibility of eyewitnesses in criminal trials are of utmost important where in the cases referred above is stated the eyewitnesses are admissible to be presented in the court irrespective of their age, or if there is the only sole witness for the case also many conviction had been done on the basis their testimony also in the period of 1990-2000 we saw the court take the eyewitness testimony as a main direct evidence without considering the collaborated evidence or circumstantial evidence, even without checking the credibility of the witnesses, In the years 2000-2010 we see a little shift where the courts have starting considering circumstantial evidence with an eyewitness to deliver the verdict in 2010-2020 the courts with the view to protect the

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<sup>4</sup> *State of Uttar Pradesh v Jagdeo* (2003) 1 SCC 456

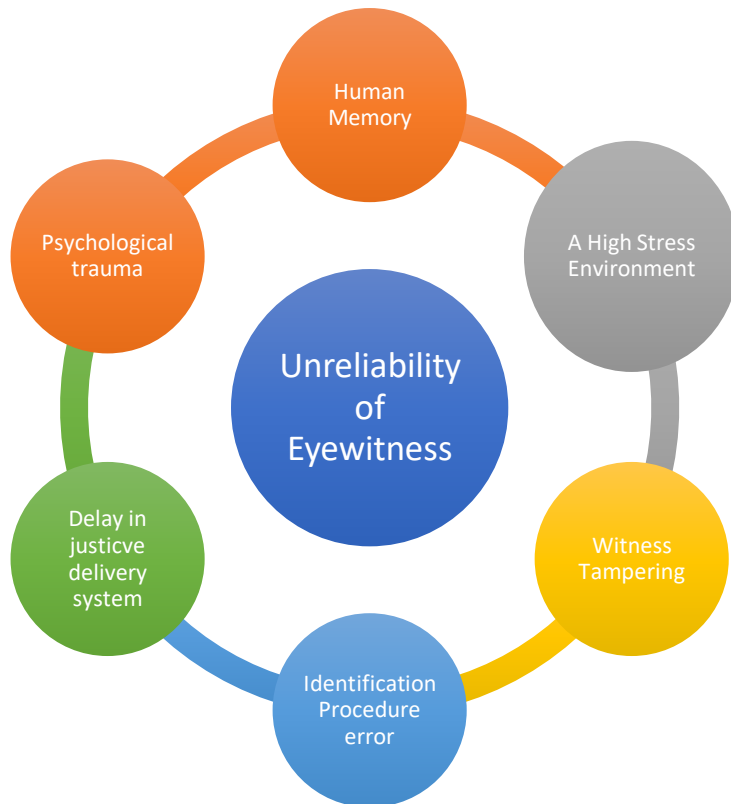
<sup>5</sup> *Vikas Kumar Roorkeval v State of Uttarakhand & Ors* 2011 (2) SCC 178

<sup>6</sup> *Alagupandi v State of T.N.* (2012) 10 SCC 451

<sup>7</sup> *Edward v Inspector of Police* 2015 (11) SCC 222

witnesses and to ensure the reliability and credibility of witness courts followed to admissible eyewitness as a direct evidence proven with circumstantial evidence.

### FACTORS AFFECTING THE RELIABILITY OF EYEWITNESSES THROUGH CASE ANALYSIS IN THE JUDICIARY SYSTEM



***Daya Singh v the State of Haryana:***<sup>8</sup> The incident in question in the Daya Singh against the State of Haryana case occurred in 1988, and the appeal’s concern was about the appellant’s conviction based only on the accused’s identification in court by two prosecution witnesses. Eventually, some eight years after the incident, the witnesses identified themselves in court. The Court disregarded the evidentiary value regarding eyewitness testimony, which shows that even the most sincere and well-intentioned witnesses can give false testimony. The phenomenon known as ‘False memories’, which describes the propensity to recall events that never actually occurred or to recall events as occurring very differently from how they happened, is particularly likely to occur in eyewitness testimony. The process by which the information to be retained in

<sup>8</sup> *Daya Singh v the State of Haryana* (2001) SCC (Cri) 553

memory is acquired, how long it is retained, and how easily it may be retrieved all affect how accurate these testimonies are. The Supreme Court, while passing a sentence for conviction of the accused.

*Zahaira Habibulla H. Sheikh & Anr v State of Gujarat and Ors:*<sup>9</sup> The Best Bakery Case concerned a communal disturbance in Gujarat that resulted in the deaths of fourteen people. During the trial, 37 witnesses for the prosecution, including a few eyewitnesses and several relatives of the victims, became hostile. The trial court found all 21 of the accused parties not guilty. The Supreme Court provided many insights on the issue of witness protection even as it overturned the 'Acquittal' and mandated a new trial in the St of Maharashtra, the Apex court observed that 'Legislative measures to emphasize prohibition against tampering with witnesses, victim or informant, have become the imminent and inevitable need of the day'. Additionally, the Court mentioned 'Witness Protection Programmes' developed in different nations. It stated that 'The Witness Protection Programmes are imperative as well as imminent in the context of the alarming rate of somersaults by witnesses'. The Court has since asked different States to respond to its inquiry about witness protection. As per the 198<sup>th</sup> Law Commission report.

*Vikas Kumar Roorkewal v State of Uttarakhand & Ors:*<sup>10</sup> The late Radhey Shyam was first employed as an executive engineer in Uttar Pradesh's irrigation department. In January 2004, he was assigned to oversee the Upper Ganga Link Canal Project, which aimed to connect the Ganga and Yamuna rivers.

Three people were brutally murdered on June 18, 2006, in the afternoon at his Camp Office in Roorkee, Uttarakhand. The petitioner, who presents himself as an eyewitness, claims to have followed the accused after they fled. The petitioner has stated that he was threatened by the accused, and other witnesses for a long time, saying that if they will appear in court, they would suffer the same fate as the victim. The petitioner has stated that the first eyewitness to testify in court stated that the remedy sought in this instant petition is now required to ensure that the

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<sup>9</sup> *Zahaira Habibulla H. Sheikh & Anr v State of Gujarat and Ors* 2006 (3) SCC 374

<sup>10</sup> *Vikas Kumar Roorkewal v State of Uttarakhand & Ors* 2011 (2) SCC 178

witnesses' incapacitation is eliminated and justice is served. Due to lack of evidence court acquitted the accused.

*Madhu @ Madhuranatha & Anr v State of Karnataka:*<sup>11</sup> Madhusudhan was reported missing to the police station, and it was suspected that he had been abducted while en route to get money from the borrower, as he never returned home. The same day, Madhuranatha (Accused) turned himself into the police station. They voluntarily provided some statements, which led the police to the forest and indicated the location from where the deceased was dug up. The head had been severed and thrown into the river Nandi, leaving just the trunk of the body to be discovered. The HC had upheld the death penalty and the rulings directives of the knowledgeable District & Sessions Judge because numerous witnesses, in this case, had attested to the deceased's last-seen theory. and the accused was not able to prove his innocence. The accused is found guilty by the court based on the last-seen theory.

*Ravasaheb v State of Karnataka:*<sup>12</sup> Murder Trial –There are eight accused going to be sentenced to life in prison based only on the testimony of one witness. It was held that the testimony of a single credible eyewitness is sufficient to establish the case 'beyond a reasonable doubt'. It is not arguable that PW-1's testimony should be rejected because PW-1's brother was the deceased's brother and thus an interested witness, nor that the fact that no evidence was recovered from anyone other than accused Nos. 2 and 4 indicates that others were not present at the crime scene.

As it has already been stated the Indian judiciary follows the trend to accept eyewitnesses as the direct evidence to be relied upon, but as the testimony of eyewitnesses is primary evidence its credibility should be ensured at every stage. As Humans have a very complicated brain to rely upon, which can transcript wrong information, the ability to recall the instance also varies on a case-to-case basis, and it can be easily influenced, also the capacity of memory is limited to the time and the cases decided by the judiciary take ages to resolve the case above mention give us the idea that the eyewitness cannot be solely relied upon as a justice delivery system had to

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<sup>11</sup> *Madhu @ Madhuranatha & Anr v State of Karnataka* 2014 (12) SCC 419

<sup>12</sup> *Ravasaheb v State of Karnataka* (2023) 5 SCC 391

ensure that no innocent should not be behind the bar and hence the eyewitness supported by the corroborative evidence should be considered as a combination to serve the justice.

### WRONGFUL CONVICTION: THE EYEWITNESS TESTIMONY

In the case of *Ankush Maruti Shinde v State of Maharashtra*<sup>13</sup>, six death row convicts had to serve 16 years in jail before the Apex Court acquitted them. Their sentence was maintained by all 3 courts, however, when the Apex Court chose to revisit the evidence, it discovered that something was missing. Although other evidence from the crime scene could have been forwarded for forensic processing and presented in court, eyewitness testimony was given preference.

According to one study, 52% of erroneous convictions were caused by defective and misleading eyewitness recall or mistaken identification. According to the Delhi Report, 'last seen' evidence was most regularly used in the context of capital punishment for rape and murder. Because the nature of the incident disallowed direct witnesses, 'last seen' evidence was useful. It was determined that 'last seen' evidence was linked to a recovery based on the accused's police confession. Courts appear to be allowing this combination to avoid the requirement that a conviction cannot be based only on 'last seen' evidence.

In the matter of *R.D. Nayak v State of Gujarat*, the arguments made by the defence in a case where a ten-year-old's eyewitness testimony served as more evidence of the problems with eyewitness testimony. The defendant said that corroboration is required unless the evidence is completely unimpaired, as the case relied on the admissibility of the child witnesses' testimony. It was highlighted that the defence did not arrive with clean hands because the informant was a close family, as evidenced by his failure to reply to what her daughter stated immediately. It was evident from the child witnesses' testimony that she got tutored. Without deliberating much over their merits, the court dismissed these objections and found the accused guilty of a crime covered by Section 302 of the IPC<sup>14</sup>.

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<sup>13</sup> *Ankush Maruti Shinde v State of Maharashtra* (2019) 15 SCC 470

<sup>14</sup> Indian Penal Code 1860, s 302



## **SUBMISSIONS AND CONCLUSION**

The trial process heavily relies on eyewitness testimony. They frequently have a significant impact on how the accused is treated. However, a multitude of variables lead to its inconsistency and the rendering of unfair and unjust decisions. While forensic science reports and precision are more likely to be accurate, eyewitness evidence is not as trustworthy because they are prone to error. Eyewitness testimony is biased and prone to memory errors, even though it is a powerful kind of evidence for convicting an accused. Using an eye witness is solely based on the presumption of truth. The eyewitness isn't entirely trustworthy since they can be coerced, biased, intimidated, etc. Relying on eyewitness accounts often leads to erroneous convictions. While an eyewitness is important to the trial process, especially when the entire conviction depends on that witness, the eyewitness's evidentiary value increases when it is supported by the testimonies of other witnesses, facts, etc. Although eyewitness testimony is not always credible, forensic reports are more reliable since they are significantly less likely to contain errors than DNA or other forensic science findings. As human mind is adaptable. If circumstances such as memory loss, poor observation, mental shock, and trauma are not considered, eyewitness testimony can result in wrongful convictions and, ultimately, a miscarriage of justice. As a result, incorrect beliefs and incidents of unfair treatment become easier to spread. If accused, it constitutes a miscarriage of justice. Furthermore, witnesses often make misleading statements or become hostile out of fear of persecution and suffering. Additionally, witnesses may be needed for follow-up examinations. For this reason, people often provide false information to avoid this. The reliability and accuracy of eyewitness testimony can also be harmed by a various other situation, including improper influence, threats, and ulterior motives. More precisely, just like with a camera, it is often inaccurate to believe that memory offers an accurate description of knowledge.