

Plea of Alibi With Reference to Section 103 of The Indian Evidence Act, 1872

Amit Verma

Department of Law

Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India

Abstract: *The word 'Alibi' is a Latin word meaning 'elsewhere' or 'elsewhere'. In criminal cases, Alibi is employed by the complainant against the execution of the suspected crime as a shield. The defendant takes this plea in proceedings to show his or her innocence which implies that he or she was at the execution of the incident at some other place. In fact, the alibi plea suggests that he was not physically present anywhere or somewhere else during the execution of the alleged offence. In such a case, the prosecutor should properly discharge the responsibility. Once the court is favourable in the discharge of the burden, it is compulsory to demonstrate it with utter honesty to the defendant who takes the place of alibi. An alibi is not a conceptualised or proposed exemption in the IPC or in any other statute.*

Keywords: *Alibi, Proceeding, Crime, Crime Scene, Honesty, Defendant, IPC sections, Rules, Guidelines.*

INTRODUCTION

It is the plea of disappearance of an individual accused of a crime, identified as a plea of alibi from the location of incidence at the moment of the execution of the crime. The word "Alibi" is a Latin word which means elsewhere or some distinct location. Under criminal law, this plea can be used against the execution of an alleged crime by the offender. At the point when the accused argues the plausible excuse in court for law the person in question endeavours to demonstrate that the individual is somewhere else when the offense is executed. As such, it just discloses to us that the blamed wasn't truly present at the wrongdoing scene. It is primary legislation that the victim has the responsibility in the criminal case to show that he does not actually exist on the scene and did not engage in the commission of offense (Section 103 of Indian Evidence Act, 1872). In order to determine the plea of alibi, the suspect must give proof that he was so far away from the place of incident at the moment of the offence that he may not have committed the offence. With the Plea of Alibi, Section 11 of the Indian Proof Act, 1872 is clarified.

It may not, nevertheless, be the ultimate condition or sole reference to bare conviction. If one evidence is important to the accused's conclusion of guilt, but substantially lacking in the string of accidental evidence, the prosecution case will definitely fail. As an alibi, the significance of which is entirely unpredictable with the assumption that a crime was perpetrated by the offender.

DEFINITION OF PLEA OF ALIBI

In the Indian Penal Code, 1860 (hereinafter referred to as "IPC") or the Evidence Act, 1872 (hereinafter referred to as "Evidence Act"), Alibi itself is not specified. It falls, nevertheless, within the framework of Section 11 of the Evidence Act. There are some facts which are indeed

not important as per Section 11.¹ Plea of alibi is the mitigation of an alleged criminal charge against governments that during the occurrence of crime the suspect was somewhere and was not involved in the scene of the crime. The theory is founded on the presumption that the accused is innocent.²

ESSENTIALS OF PLEA OF ALIBI

To lift the plea of alibi, there exist few essentials that are necessary to be established. With respect establish the alibi plea, the perpetrator should ensure that at the moment when the commission of crime took place, he was not present at the location of the crime. It should always be recalled it can only be the defendant who can lift the alibi plea. Apart from the suspect and any other person can raise the alibi plea that should be raised at the earliest possible moment.

1. Earliest Possible Opportunity

The alibi plea will not be viewed as a self-defense plea. It is required to be performed at the earliest possible opportunity course, which may be either at the formulation stage of the accusation or at the court appearance, but not further than the defense proof phase. If it is addressed at the earliest possible moment - at the earliest opportunity - the plea of alibi posed by the accused would have considerable credibility.

2. Burden of Proof

The prosecutor would have to show from the beginning that the suspect was active at the time of the incident and his role in the crime was over there. It is on the suspect, until the responsibility is relieved by the prosecutor, to prove him being innocent which can be via the alibi plea. Once, as per the Evidence Act, the accused takes the plea of alibi, the burden of proof is on the accused to show that he was at any other venue and not at the place where the crime was committed.³

3. Establishment of ALIBI'S False Plea by the Suspect

It is also found that, in the proceedings with respect to criminal cases in opposite to him, the defendant poses a false plea of alibi as a defence, which may cause significant changes in the entire case. Providing fraudulent alibi evidence contributes to the suspect's questionable act, and the jury will be more vigilant in the case's trial. When a false alibi plea is raised, it also changes the investigation process.

4. In relation to particular crime, the person making the alibi plea must be charged.
5. It is recognised as plea of defence in which the defendant argues that he or she was, at the commission of the crime elsewhere.
6. The plea must establish above possible suspicion that, at the point of the execution of the crime it was unlikely for the suspect to be adequately available.

¹ Refer section 11 of Indian Evidence Act, 1872

² P. B. Mehta, "Till the state recognises us," *The Indian Express*, 2006

³ Satya Vir vs. State (1958) AIR 746 (All)

7. The plea must be supported by evidence which supports the accused's argument.⁴

In the following situations, the Alibi Plea is not maintainable.⁵

- (a) This alibi plea cannot be sustained in instances of tort such as defamation, contributory negligence.
- (b) In marital proceedings such as divorce, maintenance etc, a plea of alibi does not apply.
- (c) The alibi plea serves as an exemption to the Privilege to Silence.

The plea of alibi ought to be brought up in beginning phase of a case, which can be prior to documenting of the charge.

*Section 11 of The Indian Evidence Act, 1872*⁶

When facts not otherwise relevant become relevant.—Facts not otherwise relevant are relevant—

- (1) “if they are inconsistent with any truth in issue or relevant fact”;
- (2) “if by themselves or in reference with other facts they create the existence or non-existence of any fact in issue or relevant fact extremely probable or improbable”.

Example

- (a) The question is, whether A committed a crime at Calcutta on a certain day. The fact that, on that day, A was at Lahore is relevant. The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not possible, that he committed it, is relevant.

Section 103 of Indian Evidence Act, 1872

Section 103 of the Evidence Act, 1872 provides for Burden of proof as to particular fact which states that the burden of proof as to any particular fact lies on that person who needs the Court to believe its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Example: the question is, whether or not A committed a crime against the law at city Calcutta on a particular day. The fact that, on that day, he was at New Delhi is relevant.

Case Laws

1. Lakhan Singh @ Pappu v. The State of NCT of Delhi⁷

In this case, the plea of alibi couldn't be compared with the plea of self-defense and should be admitted at first occasion and not late at the defence proof level. In any event, the

⁴ R. Silwal, “Judicial Trend Regarding Plea of Alibi in Nepal,” *SSRN Electron. J.*, 2012

⁵ M. Allison and C. A. E. Brimacombe, “Alibi believability: The effect of prior convictions and judicial instructions,” *J. Appl. Soc. Psychol.*, vol. 40, no. 5, pp. 1054–1084, 2010.

⁶ H. Shaffer, “The Indian Evidence Act,” *Third Text*, 2016

⁷ Delhi HC CrI. Appeal No. 166/1999

appellant/accused does not offer any excuse or justification for failing, at the earliest opportunity, to take up this alibi plea.

2. Sahabuddin & Anr v. the State of Assam⁸

Once the court disagrees with the alibi plea and no clarification is given by the accused in his declaration under Section 313 of the CrPC, the Court is entitled to draw an adverse conclusion against the accused. At this point, in the case of Jitender Kumar v State of Haryana[(2012) 6 SSC 2014], where the Court, though disbelieving the petition, had drawn an adverse inference and claimed that this fact would help the prosecution's case, we should refer to the judgement of this Court.

CONCLUSION

It should be stressed that it is only when the plea of alibi has been embraced by the offender that the likelihood of the offender having undertaken the crime or the obligation of evidence on the offender to justify his alibi does not lessen in any way. The suspect must justify his alibi plea far beyond possible suspicion and with clear supporting evidence. And then, in criminal proceedings would the court consider it. Unnecessary to mention, the prosecutor would have to prove separately that the defendant has conducted the crime because an accused is normally "presumed innocent until declared guilty" according to the law prevailing in India.

It is not appropriate for the suspect to lift the alibi plea until his obligation of demonstrating the accused guilty has been released by the prosecutor. If, above reasonable doubt, the prosecutor has failed to establish the accused's guilt, then it would not be necessary for the offender to show his defence of the alibi plea. But if his responsibility has been released by the prosecutor, it is then necessary for the suspect to justify his alibi plea in order to establish that he was not available at the location where the crime has been committed.

Finally, in demonstrating the wrongdoing or the defence side in justifying the innocence of the defendant, it would be on the court to determine who has enough weight - the prosecution side. The accused still has a greater duty of proving his innocence by the shield raised by him. If the defendant establishes only a portion of his defence, the court will transfer its inclination to the defendant. The plea of alibi is not an exception envisaged in Indian Penal Code or any other law. It is only rule of evidence recognised in section 11 of the Evidence Act that facts are inconsistent with the fact in issue are relevant.

⁸ (1997) 1 SCC 283