



# New

# Criminal Laws

## (Subjective Q&A for Mains)

### Volume - 1

**Bharatiya Sakshya Adhiniyam, 2023**



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# SUBJECTIVE QUESTIONS AND ANSWERS

## CHAPTER 1 PRELIMINARY & DEFINITIONS

### Sections 1-2

**Que. What is the object of the Law of Evidence?**

**Ans:**

The object of the Law of Evidence is to restrict the investigation of courts within reasonable limits of general convenience, so that trials are conducted efficiently and effectively.

It Determines what evidence is admissible in court, and how that evidence can be used to establish facts in a legal proceedings.

**Que. Why is restriction on evidence necessary?**

**Ans:**

If restrictions are not imposed on evidence:

- Trials may continue for an indefinite period
- Courts may consider irrelevant or excessive material
- It becomes difficult to reach a final decision

**Que. What is the role of the Law of Evidence in judicial proceedings?**

**Ans:**

The role of the Law of Evidence in judicial proceedings are as follows:

- It acts as a guiding framework for courts
- It ensures logical reasoning and proper evaluation of facts
- It helps judges decide cases based on relevant and admissible evidence only

**Que. What happens in the absence of the Law of Evidence?**

**Ans:**

In the absence of the Law of Evidence:

- There will be delay in trials
- Unnecessary complications will arise
- Litigants will face:
  - More expenses
  - More obstructions
- It may cause inconvenience to the general public

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**Que. How can the Law of Evidence be compared to logic?**

**Ans:**

The Law of Evidence is to judicial proceedings what logic is to reasoning.

It ensures that decisions are:

- Rational
- Structured
- Based on relevant facts

**Que. What are the key changes introduced in the Bharatiya Sakshya Adhiniyam, 2023 which distinguish it from the Indian Evidence Act, 1872?**

**Ans:**

The key changes introduced in the Bharatiya Sakshya Adhiniyam, 2023 which distinguish it from the Indian Evidence Act, 1872 are as follows:

**1. New Identity (Nomenclature)**

The name has shifted from English to Hindi. While "Bharatiya Sakshya Adhiniyam" was previously just the Hindi translation of the "Indian Evidence Act," it is now the official legal title. It's a move toward decolonizing India's legal identity.

**2. Dignity in Language**

The law has swapped out insensitive, colonial-era terms for more modern, respectful ones.

- Old: Used "lunatic" or "idiot."
- New: Uses "a person of unsound mind." This change moves away from social stigma and focuses on the medical and human reality of mental health.

**3. Deleting "The Crown" & Embracing the "Cloud"**

The BSA has scrubbed away references to British royalty (like "Her Majesty's Dominions" or "London Gazette") that haven't been relevant since 1947. More importantly, it now links directly to the Information Technology Act. This means the law officially recognizes that evidence lives in:

- Emails and WhatsApp messages.
- Server logs and cloud storage.
- Location data from your smartphone.

**4. Only One Title: "Advocate"**

Back in the day, legal professionals were divided into various categories like "Vakil," "Pleader," or "Barrister." The BSA simplifies this by using the single term "Advocate" to cover all legal representatives.

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## 5. "Documents" Go Digital

The definition of a "document" has been expanded. It's no longer just paper and ink. If it's a digital record, a video, or an electronic file intended to record information, it is legally a "document."

## 6. Video Testimony & Coercion

- Virtual Courts: Witnesses and experts can now testify via video conferencing. This saves time, money, and the hassle of traveling to court.
- No Coercion: Previously, confessions were invalid if obtained via threats or promises. The BSA adds "coercion" (using force or intimidation) as a specific ground to throw out a confession.

## 7. Expanding the "Expert" Circle

The old law was very specific about which fields could have "experts" (like science or art). The BSA adds a catch-all phrase: "any other field." This allows the court to bring in specialists for modern niches that didn't exist in 1872.

## 8. Trials in Absentia (Running from Justice)

If someone is accused of a crime with others but runs away (absconds), the trial can still proceed as a "joint trial." Essentially, you can't stop the wheels of justice for everyone else just by disappearing.

## 9. Judicial Notice (Things the Judge Just "Knows")

There are some facts the court doesn't need "proof" for because they are self-evident. The BSA updates this list to include:

- All Indian laws (including those that apply outside India).
- International treaties and agreements.
- The formal proceedings of the Indian Parliament and State Legislatures.

## 10. Digital "Originals" (Primary Evidence)

This is a massive technical shift. Digital files are now treated as "Primary Evidence" (the original) if:

- They are produced from proper custody.
- They are video recordings stored and broadcast simultaneously.
- They are stored in multiple places (like automated cloud backups).

## 11. Digital is Legally Equal

Section 61 is a shield for digital data. It says a piece of evidence cannot be rejected *only* because it is in an electronic or digital format. If it's digital, it's valid.

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## 12. Landlord-Tenant Disputes (Estoppel)

There is a rule called "estoppel" which basically means you can't take back something you previously admitted.

- The Change: A tenant cannot deny that their landlord owns the property at the start of the tenancy—and this now applies even after the lease has ended.

## 13. How to Prove Digital Evidence

Sections 62 and 63 provide the "instruction manual" for the court on how to verify electronic records. It sets up strict procedures to ensure that the digital files being presented haven't been tampered with or faked.

**Que. 'Substantive law is different from procedural law.' Explain by giving reference to the Bharatiya Sakshya Adhiniyam, 2023**

**Ans:**

### 1. Concept of Substantive and Procedural Law

Substantive law is the branch of law which creates, defines and regulates rights, duties and liabilities of individuals. It determines what acts are lawful or unlawful and prescribes consequences. Examples include the Bharatiya Nyaya Sanhita, 2023 and the Indian Contract Act, 1872.

Procedural law, on the other hand, lays down the method and machinery for enforcement of those rights and liabilities. It governs the process of adjudication by courts. Examples include the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Code of Civil Procedure, 1908.

### 2. Distinction between Substantive and Procedural Law

| Basis    | Substantive Law                | Procedural Law                         |
|----------|--------------------------------|----------------------------------------|
| Nature   | Defines rights and liabilities | Prescribes procedure to enforce rights |
| Function | Determines legal relationship  | Provides mechanism for enforcement     |
| Object   | Justice in substance           | Justice in process                     |

### 3. Nature of the Bharatiya Sakshya Adhiniyam, 2023 (BSA)

The Bharatiya Sakshya Adhiniyam, 2023 is primarily a **procedural law**, as it does not create or define rights and liabilities but regulates the **admissibility, relevancy and proof of facts** in judicial proceedings.

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**It lays down:**

- What facts are **relevant and admissible**
- How facts may be **proved or disproved**
- Rules relating to **burden of proof**
- Examination of witnesses and evaluation of evidence

Thus, it acts as a **guide for courts** in determining facts during trial.

#### **4. Substantive Elements within BSA**

Although predominantly procedural, certain provisions of the BSA have **substantive character**, as they directly affect rights of parties:

- **Estoppel (Sections relating to estoppel under BSA):** Prevents a person from denying a fact, thereby affecting legal rights.
- **Presumptions (Section 4 BSA and other specific presumptions):** May shift burden of proof and affect outcomes.
- **Admissions and Confessions:** Bind parties and may determine liabilities.

Such provisions are considered substantive because they **affect rights rather than merely procedure**.

#### **5. Interrelationship**

Substantive and procedural laws are **complementary**. Substantive law provides the rights, while procedural law, including BSA, provides the **means to enforce and prove those rights in court**.

#### **6. Conclusion**

Thus, while substantive law and procedural law are distinct, they are interdependent. The Bharatiya Sakshya Adhiniyam, 2023 is largely procedural in nature as it governs the **rules of evidence and proof**, though it incorporates certain substantive principles such as estoppel and presumptions which directly impact rights and liabilities.

**Que. The rules of proof in civil and criminal cases are generally the same. But point out some differences which must be noted in dealing with civil and criminal cases.**

**Ans:**

##### **1. General Principle**

The **rules of evidence under the Bharatiya Sakshya Adhiniyam, 2023** apply equally to both civil and criminal proceedings.

However, the **standard, burden, and approach to proof differ significantly**.

## 2. Basis of Distinction

| Basis                                 | Civil Cases                             | Criminal Cases                                                 |
|---------------------------------------|-----------------------------------------|----------------------------------------------------------------|
| <b>Standard of Proof</b>              | Preponderance of probabilities          | Proof beyond reasonable doubt                                  |
| <b>Burden of Proof</b>                | Lies on plaintiff (may shift easily)    | Lies on prosecution (strict and heavy)                         |
| <b>Presumption of Innocence</b>       | No such presumption                     | Accused presumed innocent until proved guilty                  |
| <b>Benefit of Doubt</b>               | Not strictly applied                    | Goes to accused                                                |
| <b>Degree of Certainty</b>            | Lesser degree sufficient                | High degree of certainty required                              |
| <b>Nature of Liability</b>            | Rights and obligations between parties  | Offence against State/society                                  |
| <b>Effect of Admission</b>            | Admissions carry great weight           | Confessions strictly scrutinized                               |
| <b>Use of Circumstantial Evidence</b> | Accepted with flexibility               | Must form complete chain excluding all hypotheses except guilt |
| <b>Falsehood in Evidence</b>          | Court may accept part and reject part   | Greater caution; benefit goes to accused                       |
| <b>Approach of Court</b>              | Comparative evaluation of probabilities | Strict scrutiny to avoid wrongful conviction                   |

**Que. Write a note on ‘fact in issue’. Illustrate your answer.**

**Ans:**

### 1. Definition

**Section 2(1)(g) of the Bharatiya Sakshya Adhiniyam, 2023 (BSA)** defines *fact in issue* as:

Any fact which, either by itself or in connection with other facts, proves or disproves the existence, non-existence, nature or extent of any right, liability or disability, asserted by one party and denied by the other.



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## 2. Meaning and Nature

- Facts in issue are the **principal disputed facts** in a case.
- They are:
  - **Asserted by one party** and
  - **Denied by the other.**
- Determination of these facts leads to the **final adjudication of the case.**

Thus, they constitute the **core questions to be decided by the court.**

## 3. Essential Characteristics

1. They are **directly in dispute** between the parties;
2. They relate to **rights, liabilities, or disabilities**;
3. Their determination **resolves the controversy** in the case.

## 4. Illustrations

### (A) Criminal Case

If A is alleged to have murdered B, the facts in issue are:

- Whether **A caused the death of B**;
- Whether A had the **intention or knowledge** required;
- Whether the act falls within any **general exceptions** under BNS.

### (B) Civil Case

In a suit for breach of contract:

- Whether a **valid contract existed** between A and B;
- Whether **breach** of such contract occurred.

## 5. Conclusion

Facts in issue form the **foundation of a trial**, as they define the **scope of inquiry** and determine the **rights and liabilities of parties**. All evidence is ultimately directed towards proving or disproving these facts.

**Que. What is a “fact”?**

**Ans:**

### 1. Definition

**Section 2(1)(f) of the Bharatiya Sakshya Adhiniyam, 2023 (BSA)** defines *fact* as:

- (i) Anything, state of things, or relation of things capable of being perceived by the senses; or
- (ii) Any mental condition of which any person is conscious.

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## 2. Kinds of Facts

From the definition, facts are broadly classified into:

### (A) Physical Facts

- Facts **perceptible by senses** (sight, hearing, touch, etc.).
- Example: A person **saw or heard** something.

### (B) Psychological (Mental) Facts

- Facts relating to **mental condition or state of mind**.
- Example: A person **intended, believed, or had knowledge** of something.

## 3. Judicial Interpretation

In **H.P. Administration v. Om Prakash (1972) 1 SCC 249**, the Supreme Court held that:

The term “fact” includes not only physical facts but also **psychological or mental conditions**.

## 4. Conclusion

Thus, under the BSA, the term *fact* has a **wide ambit**, encompassing both **external realities** and **internal mental states**, both of which are relevant for adjudication of disputes.

**Que. What is a ‘relevant fact’? Differentiate between ‘fact in issue’ and ‘relevant fact’.**

**Ans:**

### 1. Meaning of Relevant Fact

**Section 2(1)(k) of the Bharatiya Sakshya Adhiniyam, 2023 (BSA)** provides that:

One fact is said to be relevant to another when it is **connected with it in any of the ways specified in the provisions of the BSA relating to relevancy of facts**.

- The section does not give an exhaustive definition but indicates that relevancy depends upon the **logical connection** as laid down under the Act.
- Relevant facts are those which, though **not directly in issue**, are **so connected with facts in issue** that they help in proving or disproving them.

**As per Section 3, BSA, evidence may be given only of:**

- **Facts in issue**, and
- **Relevant facts**, and of no others.

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## 2. Nature of Relevant Facts

- They possess **probative value**;
- They assist the court in arriving at the **truth or falsity of facts in issue**;
- They are governed by rules under **Sections relating to relevancy (analogous to Sections 4–50 BSA)**.

## 3. Illustration

If A is tried for the murder of B, the following are **relevant facts**:

- A had borrowed money from B;
- A invited B to dinner;
- A and B were last seen together;
- Circumstances indicating poisoning.

These facts help infer whether A committed the offence.

## 4. Difference between Fact in Issue and Relevant Fact

| Basis            | Fact in Issue                                                | Relevant Fact                                                      |
|------------------|--------------------------------------------------------------|--------------------------------------------------------------------|
| <b>Meaning</b>   | Fact which directly proves or disproves a right or liability | Fact connected with fact in issue, helping to prove or disprove it |
| <b>Nature</b>    | Principal fact ( <i>factum probandum</i> )                   | Evidentiary fact ( <i>factum probans</i> )                         |
| <b>Role</b>      | Forms the core dispute                                       | Provides basis for inference                                       |
| <b>Assertion</b> | Asserted by one party and denied by the other                | Not directly in dispute                                            |
| <b>Function</b>  | Determines outcome of case                                   | Assists in proving the issue                                       |

## 5. Conclusion

Relevant facts are **subsidiary or evidentiary facts** which, by their connection with facts in issue, aid the court in determining the dispute. The law of evidence permits proof only of **facts in issue and relevant facts**, thereby ensuring focused and logical adjudication.

**Que. What is presumption? What are the different kinds of presumptions?**

**Ans:**

### 1. Meaning of Presumption

The term *presumption* is not expressly defined under the **Bharatiya Sakshya Adhiniyam, 2023 (in short BSA)**. In legal parlance, it denotes:

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A **rule of law or rule of evidence** whereby the Court **draws an inference** as to the existence of a fact from certain other proved facts, unless and until such inference is rebutted.

- It is founded upon **human experience, logic and probabilities**.
- It operates as a **departure from the general rule of burden of proof**, by dispensing with the necessity of proof in favour of the party for whose benefit the presumption operates.

In **Pratap Singh v. Shiv Ram (2020)**, the Supreme Court held that a presumption **raises a prima facie case** in favour of a party.

## 2. Kinds of Presumptions under BSA

The BSA recognizes presumptions through statutory expressions, namely **“may presume”**, **“shall presume”**, and **“conclusive proof”**:

### (A) Presumption of Fact – “May Presume”

#### Section 2(1)(h), BSA

- Where the Act provides that the Court *may presume* a fact:
  - the Court **has discretion** either to presume such fact as proved, unless and until it is disproved; or
  - to **call for strict proof** thereof.

Nature:

- **Discretionary**
- **Rebuttable**

It is based on **natural events, human conduct, and common course of affairs**.

### (B) Presumption of Law

#### (i) Rebuttable Presumption – “Shall Presume”

#### Section 2(1)(i), BSA

- Where the Act provides that the Court *shall presume* a fact:
  - the Court is **bound to presume** such fact as proved,
  - unless and until it is **disproved by the adverse party**.

Nature:

- **Mandatory presumption**
- **Rebuttable**

It results in **shifting of evidential burden** on the opposite party.

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## (ii) Irrebuttable Presumption – “Conclusive Proof”

### Section 2(1)(b), BSA

- Where one fact is declared to be **conclusive proof** of another:
  - the Court shall, upon proof of the former, **regard the latter as proved**,
  - and **shall not permit any evidence to be adduced in rebuttal**.

#### Nature:

- **Mandatory**
- **Irrebuttable (absolute presumption)**

It **completely excludes rebuttal evidence**, thereby making the presumption final.

## 3. Conclusion

Presumptions under the BSA are **legal devices grounded in probability and policy**, which **facilitate adjudication by shifting or dispensing with the burden of proof**. They play a crucial role in balancing **judicial efficiency and evidentiary fairness**.

**Que. Write a short note on ‘Document’.**

**Ans:**

### 1. Definition

The term *document* is defined under **Section 2(1)(d) of the Bharatiya Sakshya Adhiniyam, 2023 (BSA)** as:

Any matter expressed or described upon any substance by means of letters, figures, marks, or by any other means, or by more than one of those means, **intended to be used, or which may be used, for the purpose of recording that matter**, and includes **electronic and digital records**.

### 2. Essential Elements

From the definition, the following elements emerge:

1. There must be **matter expressed or described**;
2. It must be upon a **substance**;
3. Expression must be through:
  - letters, figures, marks, or other means;
4. It must be **intended to record that matter**;
5. It includes **electronic and digital records**.

### 3. Illustrations

- Written or printed documents;
- Maps, plans, or inscriptions on metal or stone;
- Photographs or lithographs;
- **Electronic records** such as:
  - e-mails, server logs, digital files;
  - messages, websites, and voice mails;
  - data stored in computers, laptops, or smartphones.

### 4. Kinds of Documents

The BSA classifies documents into:

- **Public Documents** – as defined under **Section 74(1), BSA**;
- **Private Documents** – as defined under **Section 74(2), BSA**.

### 5. Conclusion

The definition of *document* under the BSA is **comprehensive and inclusive**, covering both **traditional physical records and modern electronic/digital records**, thereby ensuring adaptability of the law to technological advancements.

**Que. What are the stages of a trial and evidence in civil and criminal cases?**

**Ans:**

There are 5 main stages in every trial (civil or criminal):

| Stage                                | Civil Case                                                             | Criminal Case                                                                                   |
|--------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <b>1. Institution / Initiation</b>   | Suit is filed by the plaintiff. Court issues summons to the defendant. | Prosecution begins by prosecutor or private complaint. Court issues summons/warrant to accused. |
| <b>2. Framing (Issues / Charges)</b> | Court frames <b>issues</b> (points in dispute).                        | Court frames <b>charges</b> against the accused.                                                |
| <b>3. Evidence</b>                   | Both plaintiff and defendant produce evidence.                         | Prosecution/complainant presents evidence. Accused may give defence evidence.                   |
| <b>4. Judgment</b>                   | Court evaluates evidence and delivers judgment.                        | Court evaluates evidence and delivers judgment.                                                 |
| <b>5. Execution / Enforcement</b>    | Execution of decree (enforcement of civil rights).                     | Acquittal or conviction with sentence.                                                          |

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**Que. Define 'Evidence'.**

**Ans:**

**1. Meaning**

The term *evidence* is derived from the Latin words “**evidens**” or “**evidere**”, meaning *to prove, to make clear, or to ascertain*.

According to Stephen, "It sometimes means words uttered and things exhibited by witnesses before a Court of Justice. At other times, it means the facts proved to exist by those words or things and regarded as grand work of inference as to other facts not so proved. Again, it is sometimes used as meaning to assert that a particular fact is relevant to the matter under inquiry."

According to Bentham, evidence is: Any matter of fact, the effect of which is to produce in the mind a persuasion, affirmative or negative, regarding the existence of another fact.

**2. Statutory Definition**

**Section 2(1)(e) of the Bharatiya Sakshya Adhiniyam, 2023 (BSA)** defines *evidence* as comprising:

**(i) Oral Evidence**

- All statements, including **electronic statements**,
- Which the Court permits or requires to be made before it by witnesses,
- In relation to matters of fact under inquiry.

**(ii) Documentary Evidence**

- All **documents**, including **electronic and digital records**,
- Produced for the inspection of the Court.

**3. Nature and Scope**

- Evidence refers to the means or instruments by which relevant facts are brought before the Court.
- It is distinct from proof, which is the result or effect of evidence.
- Evidence includes both oral testimony and documentary material, including modern electronic forms.

**4. Case**

In **State of Maharashtra v. Dr. Praful B. Desai (2003) 4 SCC 601**, the Supreme Court held that:

Evidence includes **recording of statements through video-conferencing**, thereby expanding the scope of evidence to technological modes.

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## Conclusion

Thus, *evidence* under the BSA encompasses oral and documentary materials, including electronic records, which enable the Court to ascertain truth and determine facts in issue, forming the foundation of judicial adjudication

### Que. Can affidavit be tendered as evidence?

Ans:

#### 1. General Rule

Under Section 1 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA), the Act does not apply to affidavits presented to any Court or officer.

Consequently, affidavits are not “evidence” within the meaning of Section 2(1)(e), BSA, which recognizes only:

- Oral evidence, and
- Documentary evidence.

#### 2. CASE

In **Sudha Devi v. M.P. Narayanan (AIR 1988 SC 1381)**, the Supreme Court held:

Statements contained in affidavits do not constitute evidence, as they are not tested by **cross-examination** and may contain **hearsay**.

#### 3. Exception – When Affidavit Becomes Evidence

Affidavits may be treated as evidence **only when permitted by law**, particularly:

- Under **Order XIX Rules 1 & 2 of the Code of Civil Procedure, 1908**,
- where the Court may order that any fact be proved by affidavit.
- The **CPC (Amendment) Act, 2002** further recognizes **affidavits as a mode of evidence** in appropriate cases.

#### 4. Condition of Cross-Examination

In **Ayaaub Khan Noorkhan Pathan v. State of Maharashtra (2013) 4 SCC 465**, the Supreme Court held:

An affidavit can be relied upon as evidence only if the deponent is available for cross-examination and the opposite party is given such opportunity.

#### 5. Conclusion

Thus, affidavits are not evidence per se under the BSA, but may assume the character of evidence when permitted by procedural law and subjected to cross-examination, ensuring compliance with ingredients of fair trial and evidentiary reliability.



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**Que. X is prosecuted for the murder of Y under Section 103(1) BNS. During trial, the prosecution produces certain ‘electronic records’ for inspection of the Court. Are such electronic records ‘documentary evidence’ within the meaning of the Bharatiya Sakshya Adhiniyam, 2023?**

**Ans:**

**1. Issue**

Whether **electronic records produced before the Court** constitute **documentary evidence** under the Bharatiya Sakshya Adhiniyam, 2023 (BSA).

**2. Rule (Relevant Provisions) :-**

- **Section 2(1)(d), BSA** defines *document* as:

Any matter expressed or described upon any substance by means of letters, figures, marks or any other means, intended to record that matter, and **includes electronic and digital records**.

- **Section 2(1)(e), BSA** defines *evidence* to include:

- **Documentary evidence**, i.e., all documents including **electronic or digital records** produced for inspection of the Court.

**3. Application**

**In the present case:**

- The prosecution has produced electronic records before the Court;
- The statutory definition of *document* expressly includes electronic and digital records;
- When such records are produced for inspection, they fall within the ambit of documentary evidence.

**4. Conclusion**

Yes, the electronic records produced for inspection of the Court constitute documentary evidence within the meaning of Sections 2(1)(d) and 2(1)(e) of the BSA.

**Que.**

**Can illegally obtained evidence be tendered in Court? Are there any exceptions?**

**Ans:**

**1. General Rule**

The settled position of law is that:

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**Evidence is admissible if it is relevant, irrespective of the manner in which it is obtained.**

- The Bharatiya Sakshya Adhiniyam, 2023 (BSA) primarily emphasizes **relevancy of facts**, not the legality of the source.
- Therefore, **illegally or improperly obtained evidence is not per se inadmissible.**

## **2. Case**

- In **Umesh Kumar v. State of A.P. (2013) 10 SCC 591**, the Supreme Court held:  
Even if evidence is procured by **illegal or improper means**, it is admissible **provided it is relevant and genuine.**

Thus, **evidence obtained by theft** can be admitted if it satisfies the test of **relevancy and authenticity.**

## **3. Rationale behind its inadmissibility:**

- The law of evidence focuses on **probative value**, and **relevance**,
- rather than the method of procurement.
- Excluding such evidence may lead to **failure of justice**, especially in criminal trials.

## **4. Exception / Judicial Discretion**

However, courts retain **discretionary power** to exclude evidence:

- In **Pushpa Devi M. Jatia v. M.L. Wadhawan (1987) 3 SCC 367**, it was held:  
The Court may exclude evidence, though admissible, if its **prejudicial effect outweighs its probative value**, or if its use would be **unfair.**

**Thus, exclusion may occur where:**

- the method of procurement is **grossly unfair or oppressive;**
- admission would **violate ingredients of fair trial.**

## **5. Conclusion**

Illegally obtained evidence, including evidence procured through theft, is **generally admissible** if it is **relevant and reliable.** However, courts possess **discretion to exclude such evidence** where its admission would be **unfair or prejudicial**, thereby balancing **truth-seeking with fairness in trial.**

---

**Que. Explain circumstantial evidence. What are the ingredients governing it?**

**Ans:**

**1. Meaning of Circumstantial Evidence**

Circumstantial evidence is not expressly defined under the **Bharatiya Sakshya Adhiniyam, 2023 (BSA)**. It refers to:

Evidence which relates to a **series of facts or circumstances** from which the existence of the fact in issue may be inferred.

- It is **indirect evidence**, where there is no eyewitness account.
- The Court relies upon **proved circumstances** which, when taken together, **lead to the inference of guilt**.

**2. Ingredients Governing Circumstantial Evidence**

The Supreme Court in **Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116** laid down the celebrated “**five golden ingredients (panchsheel)**”:

1. The circumstances from which the conclusion of guilt is to be drawn must be **fully established**;
2. The facts so established must be **consistent only with the hypothesis of the guilt of the accused**;
3. The circumstances must be of a **conclusive nature and tendency**;
4. They should **exclude every possible hypothesis except the one to be proved**;
5. There must be a **complete chain of evidence** so as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused.

**Other cases:**

- In **Umedbhai Jadavbhai v. State of Gujarat (1978) SC** and
- **State of U.P. v. Ravindra Prakash Mittal (1992) SC**, it was held:
  - Circumstances must be **cogently and firmly established**;
  - They must form a **complete chain** pointing unerringly towards guilt;
  - They must be **inconsistent with innocence**.

**3. Evidentiary Value**

- Circumstantial evidence is **substantive evidence**.
- A conviction can be based solely on circumstantial evidence **if the chain is complete and reliable**.

- 
- However:
    - It requires **strict scrutiny**;
    - Benefit of doubt goes to the accused if any **link in the chain is missing**.

Courts exercise **greater caution** as compared to direct evidence.

#### 4. Conclusion

Circumstantial evidence plays a vital role where direct evidence is unavailable. However, its acceptance depends upon the **completeness of the chain of circumstances** and strict adherence to judicial ingredients, ensuring that the conclusion of guilt is **unavoidable and excludes every hypothesis of innocence**.

**Que. Discuss the evidentiary value of dog tracker evidence.**

**Ans:**

##### 1. Introduction

Dog tracker or sniffer dog evidence is a form of **scientific/auxiliary evidence** used during investigation. Its evidentiary value has been considered by courts with caution due to its **inherent limitations**.

##### 2. Cases laws

- In **Abdul Razak v. State (AIR 1970 SC 283)**, the Supreme Court held:  
Tracking by dogs may be regarded as **scientific evidence**, but it is **not of much evidentiary weight**.
- In **Dinesh Borthakur v. State of Assam (AIR 2008 SC 2205)**:  
Services of sniffer dogs may be used for **investigation**, but their faculties **cannot be relied upon as substantive evidence** to establish guilt.
- In **Gade Lakshmi Mangaraju v. State of A.P. (AIR 2001 SC 3677)**:  
Dog tracking evidence suffers from **inherent frailties** and cannot be solely relied upon.

##### 3. Evidentiary Value

- Dog tracker evidence is:
  - **Corroborative in nature**;
  - **Not substantive evidence**;
  - Requires **independent supporting evidence**.

It cannot, by itself, form the basis of conviction.