

## RULE OF FAVOURABLE CONSTRUCTION

---

**Karandeep Singh\***

### ABSTRACT

*The Attitude of the general public against the criminal may be harsh and negative, but the judicial system which is vested with the authority of such crime treatment exhibits much leniency, when-so-ever required. The article deals with the application of the Rule of favorable construction, as a matter of justice and leniency toward the accused in certain unfavorable circumstances. The statutes imposing punishment are strict in terms of both penalties imposing as well in their interpretation, as it is well-known fact that punishment can't be levied without the application of strict letter of law. In many of the well-known and convoluted incidents that Indian society has witnessed, the accused were exonerated even though, in the eyes of the general public, they may have been the genuine perpetrators. This is said to be a failure on the part of the court. However, this is only a typical mistake since it could be hard for the average person to comprehend the legal system and how it operates. Principles of Natural Justice and Rule of law, though not mentioned in precise terms anywhere, inherently pervade the whole legal system.*

**Keywords:** Favorable Construction, Benefit of the doubt, Beneficial Construction, Leniency in Law.

### INTRODUCTION

Indian Constitution imparts both rights and obligations fundamental to every individual living across the state. The state expects every citizen to abide by laws and to abjure violence. A strict Criminal Justice system in the country focuses on the government departments in charge of upholding the law, preserving harmony and peace, and dealing with criminal activity. Statues like the Indian Penal Code and the Code of Criminal Procedure, define crime and provide procedures to deal with it. A Strict attitude is shown against a person who disperses criminal behavior, as he violates the law, so established and causing a disturbance in harmony, generally.

---

\*BA LLB, FOURTH YEAR, MAHARISHI MARKANDESHWAR UNIVERSITY, MULLANA.

The government runs in a 3-tier mechanism, in which the Legislature and Executive which make and execute the laws, have been often seen to exhibit a strict attitude as they make laws that define and criminalize certain acts as offenses and provide for strict punishments. This is why provisions and statutes related to dealing with crime, for legal application made by the legislature, are strictly constructed. The Judicial system, which takes out the task of such statutory interpretation applies a lenient view many times, when required, whenever any reasonable doubt or ambiguity occurs. There is the existence of a legal principle of presumption of innocence. According to it, whenever any dispute comes before the court, where one person is made accused of a suspected crime and charges, he is presumed innocent, until proven guilty. The duty to procure evidence against the accused is levied on the prosecution to prove his side of the case beyond all reasonable doubt. This judicial procedure appears to be a lenient step towards crime to many, but it is based upon the principle of natural justice, *audi alterm partem*, which is a legal maxim, that supports and explains the right of another side of the party to be heard. In the Legal system, both of the parties, the victim and the accused are given equal opportunities, only then justice is presumed to be served with equality.

### **FAVORABLE CONSTRUCTION - MEANING**

Interpretation and construction of statutes and enactments is the primary function of the court. Whenever a dispute comes, the court interprets the legislature. Since the will of the legislature is generally expressed in the form of a statute, the prime concern of the court is to find the legislature's intention. Interpretation thus means the art of finding out the true sense of enactment by giving the words their natural and ordinary meaning whereas construction is the art of drawing conclusions on the basis of the true spirit of the enactment<sup>1</sup>. The literal rule of interpretation states that legislation must be interpreted rigorously, which means that grammatical rules should be utilized to understand the language used in statutes. Since the court is only required to explain the law as it currently is and leave legislative action for remedy, the natural and customary meaning is linked to such interpretation. But the drawback here is that in case of harsh conclusions result, the court is bound to follow them.

Favorable constructions are the rule in practice that is said to favor the accused in case of any reasonable doubt of law and ambiguity. It is mostly applied in Penal and Taxing statutes. The statutes which provide for penalties for various acts to those who go against the rules

---

<sup>1</sup> Prof T. Bhattacharayya, *The Interpretation of Statutes* (11th edn, Central Law Agency 1985) 1

established by the state rather than just providing a remedy to the main victims and taxing statutes are those which provide for the tax to be levied on individuals dealing in various residential and commercial activities and acquisitions. Tax is a main source of revenue for the government. The money so collected via a tax is fueled for purposes of the country's economic growth. Generally, many textbooks suggest a strict interpretation of such penal and taxing statutes, as imposing a penal and a tax on someone is the same, and cannot be initiated unless the language of the statute says so. Therefore, the intention of the legislature is collected via the literal rule of interpretation, by giving effect to the words of enactment and their ordinary, natural, and popular meaning. No modification of the language is permissible here, as the work of penal and taxing statutes is somewhat a negative of action, one can't be put under the ambit of punishment by modifying the rules per se established, if this would occur, certainly would go against the principles of natural justice and would not be proper justice.

In the case of *Kedar Nath v State of West Bengal*<sup>2</sup>, The Supreme Court favorably constructed the interpretation by giving retrospective effect and benefitted the accused. The appellant in this case violated a law that carries a penalty of imprisonment, a fine, or both in 1947. The law was changed, and the fine amount for offenders was increased to reflect the money they had earned as a result of their offenses. The Supreme Court ruled that the offender could not receive this additional sentence as a result of retrospective consequences.

In another case of *Rattan Lal v State of Punjab*<sup>3</sup>, the accused a 16-year-old boy was convicted for outraging the modesty of a girl aged seven years after having committed house trespass. The magistrate imposed a punishment of 6 months on him. After this sentence was passed, The Probation of Offenders Act, of 1958 came into existence. The accused appealed to the Additional Sessions Judge and then to the High Court in revision without claiming the benefit of the doubt under the Probation of Offenders Act. After the High Court rejected his revision, he was 21 years of age. The Supreme Court favored the accused as he was liable for such a penalty by concluding that benefit of probation can be given to him.

However, in the case of *Chief Inspector of Mines v Karam Chand*<sup>4</sup>, the Supreme Court limited the application of favorable construction. The Court stated that the norm of a strict

---

<sup>2</sup> *Kedar Nath v State of West Bengal* AIR 1953 SC 404

<sup>3</sup> *Rattan Lal v State of Punjab* AIR 1965 SC 444

<sup>4</sup> *Chief Inspector of Mines v Karan Chand* AIR 1961 SC 838

interpretation of criminal provisions in favor of the accused is not universal and must be evaluated in conjunction with other well-established construction principles.

### **FAVORABLE CONSTRUCTION AND BENEFIT OF THE DOUBT**

Rule of Favorable construction and benefit of the doubt are somewhat similar principles having more or less the same equal approach. The benefit of the doubt means giving someone the benefit of the doubt by believing they are innocent and that the charges against them are false or inaccurate<sup>5</sup>. The principle of the benefit of the doubt can be said to be the result of favorable construction. It is the result that is given in favor of the accused as doubt arose due to a lack of evidence. However, this principle may not have moral recognition but is well protected under the legal system.

The latest example of the use of the Benefit of the doubt can be traced in the case of *Dr. (Smt.) Nupur Talwar v State of UP & Anr*<sup>6</sup> where the Allahabad High Court acquitted the accused parents of Aarushi Talwar as there was a lack of direct evidence against them. This case was also named as Noida Double Murder Case 2008, where a 13-year-old girl Aarushi in her bedroom, and a 45-year-old servant Hemraj on the terrace of the flat, was found dead. Ghaziabad CBI Court convicted the parents of Aarushi as being the prime suspects because only these four people were present on that murder night in the house. However, the Ghaziabad CBI Court convicted them on basis of circumstantial evidence fully and were given life imprisonment. The accused parents challenged the decision of the CBI court to Allahabad High Court, where the court gave them the benefit of doubt, following the principle of Favorable construction on the ground as there was no direct evidence found against the accused parents. In 2017, both these parents were acquitted.

In the case of *In M.G. Agarwal v State of Maharashtra*<sup>7</sup>, The Supreme Court ruled that the accused is entitled to the benefit of the doubt if the evidence in a case is compatible with either his guilt or innocence. The Court further held that when a fact is deemed to have been proved, the question of whether or not that fact implies guilt on the part of the accused person arises. In addressing this aspect of the issue, the accused must be given the benefit of the doubt, and any inference of guilt against him must only be made if the proven fact is wholly inconsistent

<sup>5</sup> Benefit of Doubt, 'Benefit Of The Doubt – Definition & Examples' (*Know your Phrase*) <<https://knowyourphrase.com/benefit-of-the-doubt>> accessed 12 January 2023

<sup>6</sup> *Dr. (Smt.) Nupur Talwar v State of UP & Anr* 2016 SCC OnLine All 836

<sup>7</sup> *M.G. Agarwal v State of Maharashtra* AIR 1963 SC 200

with the accused's innocence and is entirely consistent with his guilt. In this case, the Supreme Court widened the scope and explanation of how interpretation is constructed in favor of the accused in case of any ambiguity.

### **FAVORABLE CONSTRUCTION AND BENEFICIAL CONSTRUCTION**

According to the rule of beneficial construction, words should not be stretched so far as to cover circumstances that are excluded by the natural meaning of terms employed in legislation. However, if the terms' ordinary meaning is insufficient to fulfill the purpose of the law, they may be given an expanded meaning if they can do so<sup>8</sup>. It is different from the rule of favorable construction and yet it is often misunderstood to mean the same. Beneficial construction is an interpretation to secure remedy for the victim who is unjustly denied relief. The interpretation of a statute should be done in such a way that mischief is suppressed and remedy is advanced<sup>9</sup>. It involves giving the widest meaning possible to the statutes. Beneficial construction involves the usage of the Mischief rule, Golden rule, and Harmonious Construction. The mischief rule is also called purposive construction, under this type of construction, provisions of statute are looked thoroughly to look into the mischief-causing agent. The golden rule is also called modifying method of interpretation because words according to the rule, can be modified to the extent and no further to avoid absurdity and injustice caused. Harmonious construction is applied where two or more provisions of the same statute give out a repugnant effect. The court thus then tries to construe the provision by harmonizing both with each other. Beneficial construction, therefore, is a lot different from favorable construction as the latter's usage is related in case of ambiguity or reasonable doubt or involvement of any question of law in the application of any penal or taxing statute, thereby making the court construe the provisions in favor of accused. The former protects the interests of victims and is directly related to the application of beneficial statutes. Workman Compensation Act, Provident Funds Act, Gratuity Act, Consumer Protection Act, Minimum Wages Act, Industrial Dispute Act, Indian Easements Act, Guardians, and Wards Act, and Dowry (Prohibition) Act are some examples of beneficial statutes. Modern "welfare legislations" enacted in favor of a class of persons like laborers, Workman, disabled, women, children, tenants, etc.) are directed to cure some immediate hardship and bring into effect some type of social reform<sup>10</sup>, reflect an argument in support and explanation of Beneficial statutes.

---

<sup>8</sup> *Ibid*

<sup>9</sup> G. Granville Sharp, *Maxwell on Interpretation of Statutes*, (10<sup>th</sup> Edition 1953) 68

<sup>10</sup> Dr. Ashok K. Jain, *Interpretation of Statutes* (2<sup>nd</sup> edn, Ascent Publications, Delhi 1997) 140

Another distinction between favorable and beneficial construction is that the former involves strict interpretation of words of the statute as it deals with penal and taxing enactments and any penalty or tax can only be imposed when the words of the statute clearly and strictly say so, and such construction results favorable to accused when any ambiguity or question of law appears to exist as modification in the language of penal and taxing enactments is not possible. While the latter allows liberal construction i.e., modification to the language of the statute up to the extent which would benefit the victim. The Rule permits the judges to construe liberally (i.e., the flexibility of rules can be done). Where for a word, wide and narrow meaning is possible, then wider meaning is to be given<sup>11</sup>. The Supreme Court also says that ‘beneficial construction warrants liberal interpretation’<sup>12</sup>, in a case involving in which it was held observed that the State as a model employer should construe provisions of beneficial legislation in a way that extends the benefits thereunder to it.

In the case of *M/s Essen Deinki v Rajiv Kumar*<sup>13</sup>, the court said the law seems to be rather well settled as regards the “bread and butter” statutes and welfare legislations introduced in the statute book for the purposes of eradication of social melody. It is the duty incumbent on the law courts to offer a much broader interpretation.

### **LENIENT VIEW – THE CONCLUSION**

Journal of Legal Research and Juridical Sciences

Favorable construction sets an example of a lenient view of the judicial system, where rather than having a harsh perspective against the accused, the offender’s side is favored in case of ambiguity. It is an obligation before the court to conclude the case beyond a reasonable doubt, leaving no chance for further ambiguity. Also, as a general rule, every accused is presumed innocent until proven guilty. It is because the person’s liberty is at stake<sup>14</sup>, therefore no mistake of fact or law is allowed to hold existence and prefer giving benefit in his favor. Another thing is the application of the Rule of Law principle i.e., No innocent should not be punished. Blackstone in his eminent work, ‘Commentaries on the Laws of England’<sup>15</sup> said “It is better that ten guilty persons escape than that one innocent suffer”, Also, the application of the legal

---

<sup>11</sup> Dr. Ashok K. Jain (n 10) 140

<sup>12</sup> Anju Cletus, ‘Beneficial Legislation warrants liberal interpretation by the State as a Model Employer: Supreme Court’ (*LiveLaw*, 13 October 2015) <<https://www.livelaw.in/beneficial-legislation-warrants-liberal-interpretation-by-the-state-supreme-court>> accessed 12 January 2023

<sup>13</sup> *M/s Essen Deinki v Rajiv Kumar* (2002) 8 SCC 400

<sup>14</sup> HG.org Legal Recourses, ‘What Is Proof Beyond a Reasonable Doubt?’ (*HG.org*) <<https://www.hg.org/legal-articles/what-is-proof-beyond-a-reasonable-doubt-35819>> accessed 13 January 2023

<sup>15</sup> William Blackstone, *Commentaries on the Laws of England*, (1<sup>st</sup> edn, Clarendon Press at Oxford 1766)

maxim, “Let hundred guilty be acquitted but one innocent should not be convicted”<sup>16</sup> is the real reason and proper justification for the reason of lenient view and favorable construction. A very famous phrase also forms the very basis for such leniency, which is ‘you cannot take away the life from someone which you cannot give back again’<sup>17</sup>. Hence, following all these legal maxims and principles it would be just to say that it would be better to favor an accused when any reasonable doubt appears before the court rather than punish an innocent and thus avoid a miscarriage of justice. It is, therefore, every step is taken with a lenient perspective, but harsh times are always the exceptions. The reasons for such leniency can be counted. It can be due to lack of evidence, which could make the court lean down towards the accused<sup>18</sup>, or either due to involvement of a sensitive issue concerning the age and future of the student, the court favored a lenient view, no matter if the case is registered under POSH Act<sup>19</sup>, but one should at least not forget that this leniency plays a large part in the treatment of the crime<sup>20</sup>. Law always intends to punish the crime and not the criminal. It would also not be unjust to believe that Real punishment is when we hate crime and not criminal<sup>21</sup>. Application of Leniency is thus, just a part of the procedure.

Journal of Legal Research and Juridical Sciences

---

<sup>16</sup> Jain, Tarun, ‘Let Hundred Guilty Be Acquitted But One Innocent Should Not Be Convicted: Tracing the Origin and the Implications of the Maxim’ [2007] Presumptions: Doctrines & Applications, ICFAI University Publications, 2008

<sup>17</sup> Mudassir Raja, ‘You cannot take away life which you cannot give’ (*Express Tribune*, 11 April 2017) <<https://tribune.com.pk/story/1380244/cannot-take-away-life-cannot-give>> accessed 09 January 2023

<sup>18</sup> Express News Service, ‘Lack of evidence makes court take lenient view for murder accused’ (*Indian Express*, 26 November 2009) <<https://indianexpress.com/article/cities/delhi/lack-of-evidence-makes-court-take-lenient-view-for-murder-accused>> accessed 10 January 2023

<sup>19</sup> *Sree Shankar v The Principal, Sacred Heart College and Ors* WP(C). No. 19464 of 2019

<sup>20</sup> Justin Miller, ‘Philosophy of Leniency in Crime Treatment’ [1942] *The*, 32 *J. Crim. L. & Criminology* 389

<sup>21</sup> Reena Upadhya, ‘Punishment- Hate Crime Not Criminal’ (*India Study Channel*, 24 February 2017) <<https://www.indiastudychannel.com/resources/171064-Punishment-Hate-Crime-Not-Criminal.aspx>> accessed 13 January 2023