

## DOCTRINE OF RESGESTAE: A BRIEF EXAMINATION

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### ABSTRACT

*The objective of this research paper is to give the readers an overview of the Doctrine of Res Gestae and various other aspects relating to the same. The term “Res Gestae” is a Latin word that literally means “things done”. This paper shows that the doctrine of res gestae is an exception to the hearsay evidence and that hearsay evidence is not admissible. The doctrine of Res Gestae is a concept in which a person spontaneously makes decisions immediately after the happening of the event and before making up a false story. As per the Indian Law, there is a provision for the doctrine of res gestae under Section 6 of the Indian Evidence Act, 1872, and it is stated that any statement made after the occurrence of any event and in accordance with that event can be admissible under this provision and hence this provision is referred as the doctrine of res gestae. This doctrine was described as facts forming under the same transactions by the English and American writers. In criminal jurisprudence, the difficult part is proving whether the accused is guilty of the offense and whether the statements provided by the parties are admissible or not. The doctrine of Res Gestae is adopted as a necessity in proving relevant facts based on the assumption that every relevant event is considered before final disposal by the courts in order to avoid any discrepancies. The meaning of the doctrine of res gestae is not defined clearly and we cannot infer what exactly the meaning of the term is, and it can be an exception to the hearsay evidence. And the courts have to derive the meaning by considering the relevant evidence based on the whole facts of the case. A detailed analysis of the above-mentioned things has been conducted with the help of relevant case laws, provisions, and literature.*

**Keywords:** Doctrine of Res Gestae, Indian Evidence Act, 1872, Section-6 of the Indian Evidence Act, 1872, Hearsay Evidence.

### INTRODUCTION

Section-5 of the Indian Evidence Act, of 1872 states that evidence may be given of fact in issue and relevant facts described under sections 6 to section 55 of the Indian Evidence Act, of 1872.

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The concept of Res Gestae may be the only legal premise on which the courts have unanimously agreed. However, the way in which this doctrine varies greatly and the decisions given with the usage of this doctrine often attempt to reconcile them and appear futile because they are so incompatible in nature. Under the Indian Evidence Act of 1872, sections 5 to 55 deal with the relevancy of the facts, and in the Indian Evidence Act, of 1872, the doctrine of res gestae has been mentioned under section 6 and it is considered as one of the significant exceptions to the hearsay evidence. However, the term re gestae has not been explicitly mentioned under section 6 but the essence of this rule has been analyzed and concluded that the facts that are supplementary to the main issue are connected to that issue then it can be considered as the same part of the transaction and it is called res gestae. The term Res Gestae means a statement made by a person at the spur of the moment, for instance, it can be a statement during the commission of an offense or after the commission of the offense and these statements provide a clear picture of the event and helps in clearing the misunderstanding. Under Section-6 of the Indian Evidence Act, of 1872, it is stated that the facts that are proved under res gestae should be the other facts that are mentioned under the relevant facts but these facts must be linked to them. In some cases, hearsay evidence is not admissible in the court, but with the help of the res gestae the hearsay evidence can be admissible and can become admissible evidence in the court of law. This is due to the fact that res gestae statements are those statements that are made spontaneously and there is no very less time for a person to think about his acts and these statements must be in concurrence with the acts that constituted the offense. Res Gestae statements include the facts that are part of the same transaction and it will be helpful in examining when the transaction has been started and when it has ended. The term transaction under section-6 of the Indian Evidence Act, 1872, is defined as any crime, contract, or subject to any inquiry, and the transaction includes both the cause and effect of the event and any other precedents that took place at that place, and time.

### **DOCTRINE OF RES GESTAE - AN OVERVIEW**

The rule of Res Gestae first appeared in the case of **Thompson v. Trevanion**, 1693, and in this case, it was held that while the declaration of any statement is the evidence it must be in accordance with the events. Res Gestae means the things done at the incidence of the events are explanatory and there is no need for further deliberation. And the statements must constitute the main facts and they should be in a way that without the main facts, the statements should be explanatory of the event. In the case of **Babulal v. Choukhani v. Western India Theatres**

**Limited**, 1956, it was held that res gestae statements are defined under section 6 of IEA, 1872 and there is no specific definition for this term and it can be inferred in many ways but the statements made by the persons must in concurrence with the original facts of the case and one single res gestae statement not be used for every situation. For res gestae statements there must be a main transaction and evidence that can be admissible is derived from this main transaction and they must be part of this transaction for being admissible as evidence. Res gestae statements can be used in two ways one way is the restricted sense in which the right or liability of a person can be derived by providing the statements and the other way is res gestae as an expression, which means in the criminal cases to prove the guilt of the accused the statements made by a person can be concluded as it is made on the spot and not having time to create a false story.

Under the Indian Evidence Act, of 1872, it can be inferred that any act or a statement provides information about the nature of the transaction and the evidence can be inferred without antecedents of time, place, and acts. And any other facts which are connected to the main issue can be considered admissible evidence. As stated earlier section 6 of the IEA 1872, has not stated the doctrine of res gestae but section 6(14) of IEA, 1872, has analyzed the meaning of the res gestae in determining the relevance of the facts. And in this section, it is stated that the facts are connected to the fact in issue from the same part of the transaction regardless of the event when it took place and where did it take place. The transaction can be defined as a chain of events that are part of the same incident and the events that happened from the same incident should be considered as a whole but not separately. The transaction can be said as the chain of events that are to be considered from the start to the end of the event. The transactions which include a single event or more events can be constituted as a whole incident. So, it can be said that all the facts related to a case can be a transaction. Even the term transaction has not been defined under this act, but for the purpose of the doctrine, a definition was given by J.F Stephen, in his book called **Stephen's Digest of Evidence**, in which it is stated that a group of facts can be solely referred as a crime, contract, wrong, or any other subject of inquiry which may be an issue. And under the definition of the transaction, it has been stated that the fact in the issue cannot be proved by showing similar facts but not part of the same transaction and occurred under different circumstances.

The doctrine of res gestae came into light after the case of **R v. Bedingfield, 1879**; in this case, Cockburn C.J. has ruled that the res gestae statements cannot be made after the completion of the transaction. In this case, the accused slit the throat of the deceased and the deceased ran outside and told the incident to the witness the court has ruled that this statement cannot be

considered as a res gestae statement because the deceased had made the statement after the throat has been slit by the accused. And later this judgment was overruled in the case of **Ratten v. R., 1972**; in this case, it was held that the res gestae statement even made after the completion of the transaction can be taken into account, and by this judgment, the scope and applicability of the doctrine of res gestae have been widened.

### **DOCTRINE OF RES GESTAE IN RELATION TO HEARSAY EVIDENCE**

As per the Black's Law Dictionary, hearsay evidence is defined as "A term that is applied to that species of testimony given by a witness who relates, and not what he knows personally, but what he has heard from the others or others have told him is defined as a hearsay evidence". Hearsay evidence can also be called secondary evidence, as this evidence is not direct and it is either heard from others or others have said it to the person and it is not seen by the person or he is not in that place while the act has been committed. The hearsay evidence can be oral evidence, a written document, or can be in the form of gestures or it can be in form of silence. Under usual circumstances in the court the hearsay evidence cannot be admissible as evidence as it is not the primary evidence. It is said that the doctrine of res gestae is an exception to the hearsay evidence, for instance in a house there was robbery has been committed and one of the neighbors has seen that and started to call out all the other people in the locality and the statement given by him can be admissible in the court of law as evidence because he made a statement while he says the crime was taken place. Hearsay evidence can be admissible in the court with the help of res gestae statements because these statements are made during the immediate completion of the act or during the commission of the act.

### **DOCTRINE OF RES GESTAE IN RELATION TO DYING DECLARATION**

The term dying declaration means a statement that is made by a dying person and explains the circumstances of his death. The dying declaration is defined under **section 32(1)** of the Indian Evidence Act, of 1872, and is stated that it is a statement made by the dead person before his death and states the circumstances of his death. Since the dying declaration is a spontaneous statement made by the deceased person before his death and he will not cook up any false stories and the statement made by him can be admissible in a court of law and the statement made by him can be termed as a res gestae statement.

## **PRINCIPLES UNDER THE DOCTRINE OF RES GESTAE**

Under the doctrine of res gestae, there is a test for the admissibility of the evidence and this is an important principle under this doctrine. While admitting the evidence for a case the judge first should consider whether the facts that are provided are in concurrence with the main issue. And the judge must evaluate the situation in which statements are given by a person so, that the given statement is not of any false story. The statement given by the person must be in accordance with the event that has taken place and the statement was spontaneous in nature it showcases the state of mind of the person. There is a test is used in deciding whether a statement made by the bystander or a victim and the test should satisfy the below-mentioned points in order to admit the evidence given by such person:

- Is the statement given by the bystander or a victim spontaneous in nature?
- Was the identification of the facts relevant to the main issue?
- Is there any possibility of any human error in giving the res gestae statement by such a person?
- Is the statement given by such a person leading to the creation of certain other circumstances?

The admissibility test is made to clear the ambiguity and in Ratten's case, the Privy Council has given up the contemporaneity test and adopted the test of spontaneity. Because in the spontaneity test, the statements are given in no time and there is no chance of giving false statements, so, the court has chosen this approach for the admissibility of the evidence. The statement made by the victim, the bystander should in nature that is concurrence with the event but not with past events. And the statement must explain the facts of the case and it should not be a mere statement that only accompanies the act. The statement can be made by the same person who had made the act or it can be by different persons.

The test of admissibility of the evidence has been applied in some of the cases and the statement made is at the spur of the moment without any opportunity to create any other facts which misguide the facts. And in these cases, the Judges are satisfied with the evidence because the statements are the result of the immediate cause of an event and most of them would be true and the jurists have allowed such evidence. The following are the cases in which res gestae statements are provided and they were considered as hearsay evidence:

In the case of **Vasa Chandrasekhar Rao v. Ponna Satyanarayana, 2000**, the accused had killed his wife and daughter. And the discovery of the act by the accused father made a telephone call to the deceased's father and informed the same. The case question before the court is whether the statement made by the accused's father is admissible under section 6 of IEA, 1872 and this res gestae statement would be acting as an exception to the hearsay evidence. And in this case, the court has not admitted the evidence given by the accused's father because the statement made by him on the telephone call is immediately after the act or during the commission of that act and the court has declined to accept this evidence on the basis that this may not be part of the same transaction.

In the case of **Gentela Vijayavardhan Rao & Anr. V. State of Andhra Pradesh, 1996**, it was held that the interval between the act of the carnage and the recording of the statement by the magistrate has a huge time gap and the court held that the statement cannot be admissible as evidence.

In the case of **Bishna v. State of West Bengal, 2006**, in this case, the two witnesses reached the place after the act has taken place and the statements given by them are considered the evidence, and the court held that their testimony will be admissible as the evidence under section 6 of IEA, 1872.

In all the above cases mentioned the test is applied to check whether the evidence can be admissible in the court or not and the Judges have looked at whether the statements given by the people are at the spur of the moment or they have crafted the circumstances. And in the cases where the Judges have found that the statement is in immediate nature, they have admitted such statement as evidence.

### **WIDENED SCOPE OF DOCTRINE OF RES GESTAE**

The courts have slowly started using the rule of res gestae in cases of domestic violence, child abuse, etc. In the cases of domestic violence, there must be a triggering movement in which one of the spouses may not be able to bear the torch of the other spouse and decides to break down the marriage. In cases of domestic violence, only the victims can find the actual culprit of the offense. So, the testimony given by the victim in the cases of domestic violence will be admissible in a court of law as evidence against the culprit. In India, women face sexual violence and the victims of such crimes may not respond immediately due to societal pressure they may respond after a while of the offense and in such cases, the statements given by them

will be considered the evidence and they can be admissible in the court and these offenses generally takes place in the isolated areas and there will be no eye witness of this offense and hence the statement given by the victim of such offense shall be admissible in the court.

Similarly, in the cases of child abuse the testimony given by the children will be admissible as evidence because the court has relaxed the guideline that there should be an immediate statement after the offense, and in these cases, the reason for giving the extended time to the child witnesses is to provide them certain time gap to cope up with the stress they were in while the offense has taken place.

In the case of **Uttam Singh v. State of Madhya Pradesh, 2003**, the child witness is sleeping with his father, and due to certain sounds in the room he woke up and has seen that the accused with the axe killed the father of the child, and by seeing that child has shouted and the other members of the family arrived to that place and in this case, the testimony given by the child will be admissible as it was the spur of the moment and even in the case when the child immediately do not shout out to call the members of the family still the testimony given by him can be admissible in the court under section 6 of the Indian Evidence Act, 1872.

## CONCLUSION

It can be observed that the evidence brought under the res gestae statements is to avoid any injustice and to avoid the cases which are dismissed due to lack of evidence. The cases which are not admissible under section 6 of the Indian Evidence Act can be admissible under **section 157 of the Indian Evidence Act, 1872** as corroborative evidence. In India, the courts are always considered that this doctrine is a continuation as to the transaction, and any statement made after the long gap after the commission of the offense is not admissible as evidence under section 6 of IEA, 1872. But in some of the circumstances where there is a long gap between the act and the statement can be admissible due to the fact the victim may be in stress by the excitement or scared of the accused and such statements given by the victim can be admissible in the court. Under section 6 of IEA, 1872, the term transaction has not been defined and it has a vague meaning it changes from case to case so every case must be dealt with the accordance with the facts and on its own merits. And it is known that the doctrine of res gestae is an exception to the hearsay evidence but not in all cases. The Judge should be careful in scrutinizing whether the statements made by the victim or bystanders form under the same part of the transaction and they should also look upon whether the statement is given after the immediate cause of the event or not. If there is a time gap between the occurrence of the event

and the statement then it will not be admissible in the court and it is the onus of the Judge whether to accept that statement as evidence.

### **FINAL THOUGHTS**

Lastly, one can say that the doctrine of res gestae is used as the last means of resort the primary objective of this rule is to punish the criminal of the offense and give them no chance to walk away with the offense due to the lack of evidence against him. The courts always have an idea that this concept should not be extended to an unlimited level and if so happens justice cannot be delivered. And this doctrine came into existence to prevent injustice is taking place. Ever since this doctrine is followed several decisions of the court has been evolved with time.

However, there is a criticism of the doctrine of res gestae regarding the time constraint of the statement given by the person and the occurrence of the event and there are certain exceptions were made to this in order to consider it as admissible evidence in the court. This doctrine was introduced for the well-being of all the people so the courts must take due diligence in delivering the judgments.





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