



## **EVIDENTIARY VALUE OF PLEA OF ALIBI UNDER THE INDIAN CRIMINAL JUSTICE SYSTEM**

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### **INTRODUCTION**

In criminal jurisprudence, a plea of alibi serves as a defence strategy used by the accused to establish their innocence. The plea of alibi is a defence used by an accused person in a criminal case, asserting that he was not present at the scene of the crime when it was committed and therefore could not have participated in it. The term “alibi” is derived from Latin, meaning “elsewhere” or “somewhere else”. This defence essentially claims that the accused was somewhere else at the relevant time, or he was not absent at the relevant time. The central idea behind the plea of alibi defence is that the accused could not have committed the crime because he was somewhere else at the relevant time. This plea is based on the premise that the accused’s physical location at the time of the offence disproves his/her involvement in the criminal act. A plea of alibi typically serves to inform the court that the accused was not at the location where the alleged crime occurred, and therefore, cannot be guilty of committing the offence. The burden of proof for an alibi defence is generally on the accused to raise the issue, although the accused does not need to prove the alibi beyond a reasonable doubt. While the plea of alibi is a legitimate defence, it is important to note that it does not directly prove the accused’s innocence. Instead, it casts doubt on the prosecution’s case. The prosecution may still present counter-evidence or challenge the credibility of the alibi. In some legal systems, once an alibi defence is raised, the prosecution may be required to disprove it beyond a reasonable doubt. When an accused person pleads alibi, they deny the accusation by offering proof or a plausible explanation that they were not physically present at the crime scene when the crime was committed. This defence is particularly relevant in cases where the prosecution’s case is based on the accused being at the scene or engaging in actions that led to the crime. Plea of alibi is defined as “a term used to express that mode of defence to a criminal prosecution, where the party accused, to prove that he

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could not have committed the crime with which he is charged, offers evidence to show that he was in another place at the time; this is termed setting up an alibi.”<sup>1</sup>

### **LEGAL PROVISIONS THAT DEAL WITH PLEA OF ALIBI**

The plea of alibi is not an exception explicitly provided for under the Indian Penal Code or the Indian Evidence Act; rather, it is a well-recognised principle under the latter, forming an integral part of the law of evidence. This principle asserts that when an accused claims they were present at a location other than the scene of the crime at the relevant time, such a claim, if substantiated, can serve as a complete defence. Section 11 of the Indian Evidence Act, 1872 or Section 9 of Bharatiya Sakshya Adhiniyam, 2023, affirms that facts which make the existence of a relevant fact highly improbable are admissible as evidence. In this context, the plea of alibi shifts the burden of proof onto the accused, requiring them to produce credible, cogent evidence establishing his/her presence elsewhere during the commission of the alleged offence. It is not merely the existence of life in another place that matters, but the fact that, if the accused was indeed present elsewhere, it becomes impossible for them to have participated in the crime. Thus, when effectively proven, the plea of alibi strikes at the very root of the prosecution's case. The plea of alibi finds its foundation in the IEA (Indian Evidence Act) or the BSA (Bharatiya Sakshya Adhiniyam, 2023), which embodies a cardinal rule of evidence: facts that are otherwise irrelevant may attain relevance if they are inconsistent with, or render highly improbable, the existence of the facts in issue.

Under Section 11 of IEA OR Section 9 of BSA, facts become relevant when:

- They are inconsistent with any fact in issue or relevant fact in the case; or
- By themselves or in conjunction with other facts, they make the existence or non-existence of a fact in issue highly probable or improbable.

In the context of the plea of alibi, Section 11 thus assumes pivotal importance. It elevates the significance of facts establishing that the accused was present at a location different from the crime scene at the time of the alleged offence. The plea of alibi does not merely introduce a counter-narrative; it strikes at the root of the prosecution's case by rendering the very possibility of the accused's involvement by establishing that they were in a place incompatible with the alleged commission of the offence.

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<sup>1</sup> Black law's dictionary

When a plea of alibi is raised, the court has the discretion to question the accused on the matter during the examination of the accused under Section 313 CrPC or Section 351 BNSS.<sup>2</sup> This allows the accused to explain his/her whereabouts at the time of the crime. It allows the court to directly question the accused about any circumstance appearing in the evidence against them. During this questioning, the accused may take a plea of alibi, explaining that they were elsewhere when the crime occurred. This is the stage when the accused can personally put forward his/her version, without being under oath and without cross-examination. The Hon'ble Supreme Court of India has clarified this in the case of *Binay Kumar Singh v. State of Bihar*,<sup>3</sup> that a plea of alibi should be taken at the earliest opportunity, ideally at the Section 313 stage or earlier. If raised late, without credible proof, courts may view it as an afterthought.

The Hon'ble Supreme Court of India observed in the case of *Sahabuddin & Anr. v. State of Assam*,<sup>4</sup> that if an accused fails to offer any satisfactory explanation under Section 313 CrPC, and if the court finds the plea of alibi unconvincing, an adverse inference may be drawn against the accused. Likewise, in *Dudh Nath Pandey v. State of U.P.*, the Hon'ble Supreme Court reaffirmed that a plea of alibi must be supported by convincing and cogent evidence. Where such evidence is absent, the plea stands discredited, and the accused cannot evade the inference that his/her presence at the crime scene was possible.

Section 101 of the IEA states that when an accused raises the plea of alibi, the responsibility lies squarely upon him/her to substantiate it. In the criminal justice system, an accused is presumed innocent until proven guilty. However, if the accused claims that he was elsewhere when the offence occurred, he must convincingly establish this fact. To succeed, he must demonstrate through reliable evidence that he was so far from the scene of the crime at the relevant time that him/her couldn't have been present there. This burden is absolute and personal to the accused. It demands that he furnish credible circumstantial evidence, corroborative material, and trustworthy witness testimony to prove that he was genuinely at another location. Only upon the satisfactory discharge of this burden can the court accept the plea of alibi and acquit the accused of the alleged offence.

The Hon'ble Supreme Court of India in the case of *Mukesh v. State of NCT of Delhi*,<sup>5</sup> the accused invoked the defence of plea of alibi. This case is infamously known as the 2012 Delhi Gang Rape

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<sup>2</sup> Criminal Procedure Code, 1973 or Bharatiya Nagarik Suraksha Sanhita, 2023

<sup>3</sup> 1997 (1) SCC 283

<sup>4</sup> 2013 AIR SCW 817

<sup>5</sup> 2071 (5) Scale 506

Case, wherein six individuals, including a minor, were charged with committing a brutal offence in a moving bus in Delhi. The victim, a 23-year-old physiotherapy intern, and her male friend were awaiting a bus after watching a film when the heinous crime occurred. In this case, one accused raised the plea of alibi, claiming he was at a music show with another accused and family, not on the bus where the crime occurred. He further stated he was intoxicated that evening. However, the Hon'ble Supreme Court rejected the plea due to a lack of credible proof and inconsistencies in his statements. The court reiterated that under Section 11(1), the burden of proving the plea of alibi taken by the accused lies only upon the accused themselves, who must establish beyond a reasonable doubt that he was elsewhere when the offence took place. His/her presence at such other place makes his involvement impossible at the place of commission of the crime, which mandated the acquittal of the accused.

The Hon'ble Supreme Court of India in the case of *Ashok Verma v. State of Chhattisgarh*,<sup>6</sup> upheld the conviction and dismissed the plea of alibi for want of substantial evidence. The court emphasised that such a plea of alibi is valid only when the alternate location claimed is so distant from the crime scene that the accused's presence there is impossible. A false plea of alibi alone cannot absolve the accused of his crime. Once the prosecution, through credible evidence, establishes the accused's presence at the scene, the burden shifts heavily upon the accused to prove with absolute certainty that he was elsewhere at the time of the offence. This proof must be of such quality and standard that it eliminates all reasonable doubt. If the evidence leaves any scope for doubt, the accused may benefit from it. However, strict proof is essential, and the burden on the accused remains substantial.

## **RELEVANCE OF ALIBI IN CRIMINAL TRIALS**

The plea of alibi holds profound significance in Indian criminal jurisprudence, serving as a vital safeguard for ensuring fairness, justice, and the preservation of the accused's fundamental rights. Its essence lies in upholding the integrity of the criminal justice system by preventing wrongful convictions and reinforcing the principle that guilt must be established beyond a reasonable doubt. The relevance of the alibi defence in Indian criminal trials can be discerned through the following dimensions:

The foremost objective of a plea of alibi is to establish the accused's innocence by presenting credible proof of their absence from the crime scene at the time of its commission. A well-

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<sup>6</sup> 2024 INSC 1011

founded alibi enables the accused to challenge the prosecution's case and inject reasonable doubt as to their alleged involvement.

An effective alibi can decisively counter the prosecution's evidence, whether it be eyewitness testimony, circumstantial inferences, or forensic analysis, by offering verified proof and trustworthy witnesses who can confirm the accused's absence during the relevant timeframe.

A robust alibi can dismantle the prosecution's timeline, demonstrating that the accused was elsewhere when the offence occurred. This not only weakens the prosecution's narrative but also casts serious doubt on the accuracy, coherence, and credibility of his/her case.

Beyond its evidentiary value, the plea of alibi is instrumental in safeguarding constitutional rights, including the right to a fair trial, the presumption of innocence, and the entitlement to present a defence. It fortifies the accused's position, ensuring they are afforded a genuine opportunity to challenge the charges levelled against him/her.

The plea of alibi defence empowers the accused to rigorously cross-examine prosecution witnesses and challenge the credibility of their testimonies. Discrepancies, contradictions, or inconsistencies between the prosecution's statements and the alibi evidence can substantially erode the strength of the prosecution's case while fortifying the defence's position.

Invoking an alibi shifts the burden of proof squarely onto the prosecution, compelling it to disprove the alibi and establish the accused's presence at the crime scene beyond a reasonable doubt. This heightened evidentiary threshold acts as a safeguard against wrongful convictions by ensuring that only cases supported by incontrovertible evidence succeed.

Serving as a bulwark against wrongful convictions and miscarriage of justice, the alibi defence offers the accused an indispensable opportunity to present exculpatory evidence. By doing so, it protects the innocent from unjust punishment and upholds the fundamental tenets of justice.

## **CONCLUSION**

The plea of alibi serves as a vital defence mechanism in criminal jurisprudence, enabling the accused to establish his/her absence from the place of crime at the relevant time. When supported with credible, cogent, and consistent evidence, a plea of alibi can completely exonerate the accused. However, as an exception to the general rule of evidence, the burden of proving this plea of alibi rests squarely upon the accused, and mere assertion without convincing proof will

not suffice. Courts, therefore, scrutinise such pleas with utmost care, ensuring that justice is neither defeated by false defence nor denied to the innocent. The plea of alibi is a defence used by an accused person to claim that he was elsewhere when the alleged crime was committed, making it impossible for them to be the perpetrator. While it is a legitimate and recognised legal defence, it is a special or affirmative defence, meaning the burden is on the accused to prove it with clear and convincing evidence. However, this does not shift the overall burden of proof from the prosecution, which must still prove the guilt of the accused beyond a reasonable doubt. For the plea of alibi to succeed, it must be credible, consistent, and supported by strong corroborative evidence, such as reliable witness testimony or documentation. Courts often view this plea with caution, as it can be easily fabricated. Therefore, a successful plea of alibi defence typically hinges on precise, trustworthy, and verifiable evidence. This article endeavours to present a comprehensive examination of the plea of alibi, delving into its legal framework, evidentiary requirements, and pivotal role in the Indian criminal justice system. The discourse underscores its significance in safeguarding the rights of the accused and fortifying the integrity of judicial proceedings. Through the analysis of case laws and practical considerations, it highlights both the merits and challenges associated with invoking the plea of alibi as a defence. The plea of alibi occupies a crucial position in criminal trials, offering the accused an avenue to substantiate his/her absence from the scene of the alleged offence, thereby creating reasonable doubt. By shifting the evidentiary burden onto the prosecution, it serves as a powerful tool in ensuring a fair and impartial trial.