

**INTERNATIONAL JOURNAL OF LEGAL
SCIENCE AND INNOVATION**
[ISSN 2581-9453]

Volume 6 | Issue 5

2024

© 2024 *International Journal of Legal Science and Innovation*

Follow this and additional works at: <https://www.ijlsi.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for free and open access by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Legal Science and Innovation**, kindly email your Manuscript at editor.ijlsi@gmail.com.

Dudh Nath Pandey vs State of Uttar Pradesh

DHRUV PADMANABHA ACHARYA¹

ABSTRACT

According to Duhaime's Law, a plea of alibi is a defense used in criminal cases where the accused claims they were somewhere else at the time the crime was committed. The term "alibi" comes from Latin, meaning "elsewhere" or "somewhere else." When an accused person uses this defense, they are asserting their innocence by proving they could not have been at the crime scene because they were in a different location at that time.

Generally, the accused is the one who presents the plea of alibi, arguing they were not physically present when the alleged offense occurred. This plea is intended to demonstrate that the accused was elsewhere, making it impossible for them to have committed the crime. In legal terms, facts that are not immediately relevant may become relevant under certain conditions. Specifically, they become relevant if they contradict any fact in issue or relevant fact, or if they make the existence or non-existence of a fact in issue more or less probable. Under Section 103 of the Evidence Act, 1872, the burden of proof for establishing any particular fact lies with the person who wants the court to believe in its existence, unless a law specifies that the proof must be provided by a particular person.

For example, if there is a question about whether A committed a crime in Calcutta on a certain day, evidence showing that A was in New Delhi on that day would be relevant.

Keywords: *Plea of alibi, Evidence Act, 1872., Burden of proof, Relevant facts, Criminal defence.*

I. FACTS²

- 1) The appellant was convicted under section 302 of the Indian Penal Code for the offense by the additional Sessions Judge for shooting dead a college-going boy named Vijay Bhan Kishore and was sentenced to death.
- 2) The aforementioned conviction was confirmed by the Allahabad High Court and hence the appellant had filed an appeal by special leave to the supreme court. Vijay Bhan Kishore was the son of an advocate called Brij Bhan Kishore who died around 1967

¹ Author is a B.A.LL.B. student in India.

² Supreme Today AI, <https://supremetoday.ai/doc/judgement/00100019034>

leaving behind a widow with 3 daughters and a deceased. The youngest of the three daughters Ranjana Kishore was a teacher in St. Anthony Convent School.

- 3) The appellant Dudh Nath Pandey was a motor-car driver by occupation who lived as a tenant in a bungalow belonging to the deceased's family. The appellant developed a fancy for Ranjana, the overtures made by the appellant to Ranjana created resentment in her family and therefore the appellant was turned out of the outhouse by the deceased.
- 4) Thereafter the appellant made an application to the city Magistrate, Allahabad, praying for custody of Ranjana alleging that she was his lawfully wedded wife. That application was rejected by the learned Magistrate after recording statement of Ranjana in which she denied that she was married to the appellant.
- 5) Thereafter the appellant filed a petition for Habeas Corpus in the Allahabad High Court alleging that Ranjana was being illegally detained by the members of her family. Ranjana again denied the aforesaid allegation and hence accordingly the Habeas Corpus petition was dismissed by the High Court.
- 6) Thereafter, the appellant came to the Bungalow of the deceased and is alleged to have threatened to kill the deceased if he dared oppose his marriage with Ranjana as a result the deceased used to escort Ranjana to school every morning, where she was teaching.
- 7) On the next day the deceased took Ranjana to her school on his scooter as usual Ranjana used to go to the school 30-40 mins earlier, her classes used to begin at 9:30 am. After dropping Ranjana at school the deceased started back home on his scooter.
- 8) While he was passing by the Hathi Children's Park the appellant is alleged to fire at him with the country-made pistol, leaving him dead
- 9) The appellant was arrested at about 2:30 pm while he was standing near a pan shop in front of the industry where he used to work (Indian Telephone Industry, Miami)

II. LEGAL ISSUES

The Supreme Court had to consider the following key issues:

1. Whether the confession made by Dudh Nath Pandey was voluntary and admissible as evidence.
2. Whether the conviction based on the eyewitness testimony and the confession was justified and supported by corroborative evidence.

III. WITNESS STATEMENT OF PROSECUTION³

1. Harish Chandra, the domestic servant of the deceased's family, and his friend Ashok Kumar are claimed to have witnessed the incident.
2. Ranjana Kishore provided evidence that established the motive for the murder. She testified that the deceased had taken her to school on his scooter and that she was informed of the murder by two eyewitnesses.
3. The arrest of the appellant and the recovery of a loaded pistol were confirmed through the testimony of Ram Kishore. Additionally, Dr. G.S. Saxena provided evidence regarding the nature of the deceased's injuries.
4. Ballistics expert Budul Rai testified that the empty cartridge shell found at the crime scene was fired from the recovered pistol, which was found at the appellant's direction.

IV. ARGUMENT OF THE DEFENSE⁴

1. The appellant claimed that he was a guest, not a tenant, at the deceased's house. He alleged that during his stay, he and Ranjana became close, and she warned him of a threat to his life, prompting him to leave the house.
2. The appellant asserted that the murder was orchestrated by Dr. K.P. Saxena, the deceased's marital uncle, and denied any involvement in the crime.
3. The appellant argued that he had no motive for committing the crime, as the deceased's mother and other family members wanted him to marry Ranjana.

V. WITNESS STATEMENT OF THE DEFENSE

- 1) The appellant has examined five witnesses to prove the alibi, he contends that he was on duty at his workplace that is Indian Telephonic Industries, right from 8:30 AM on the date of the incident and that he was arrested from inside the factory at 2:30 PM while on duty.
- 2) Colleagues of the appellant of the Indian Telephone Industries, the defence witness made giving evidence suggesting that he was at his desk or about the time when the murder took place and further, that he was arrested within the factory.

³ Dudh Nath Pandey Vs STATE OF UTTAR, <https://www.scribd.com/presentation/452730263/Dudh-Nath-pandey-vs-STATE-OF-UTTAR>

⁴ Libertatem, Dudh Nath Pandey Vs. State of U.P, <https://libertatem.in/blog/dudh-nath-pandey-vs-state-of-u-p/>

VI. STATEMENT OF PROSECUTION WITNESS

1. Harish Chandra, the domestic servant of the deceased's family, and his friend Ashok Kumar, both witnessed the incident.
2. During cross-examination, Ranjana testified that the deceased had taken her to school on his scooter and that she learned of the murder from two eyewitnesses.
3. Ram Kishore's testimony confirmed the appellant's arrest and the recovery of a loaded pistol from his possession. Dr. G.S. Saxena's testimony provided details on the deceased's injuries.
4. Ballistics expert Budul Rai confirmed that the empty cartridge shell found at the scene was fired from the recovered pistol, which was located based on the appellant's instructions.

VII. ARGUMENT ON BEHALF OF THE DEFENCE

- 1) "The appellant pleaded that he used to stay in the house of the deceased as a family guest and not their tenant. Ranjana got intimate with him during that period. She suggested he had a danger to his life. So, he left the house."

The case of the appellant was that the murder of the deceased was engineered by Dr. K.P. Saxena, the marital uncle of the deceased. Appellant denied his hand in the murder.

According to the appellant he had no reasons to do any sort of crime because the mother of the deceased and other members of the family wanted that he should marry Ranjana.

Whereas to prove his alibi the appellant has examined five witnesses, his stand is that on 19th October 1959 he was on duty at his place of work i.e., Indian Telephonic Industries, starting from 8:30 A.M. and at 2:30 P.M. he was arrested from inside the factory while on duty.

- 2) Colleague of the appellant working along with him in the Indian Telephone Industries and called as a witness by the defense suggested that the appellant was in his desk, or from that point of time when the murder took place on that day and further to state the fact that he was arrested inside the factory premises.

VIII. JUDGEMENT OF THE COURT

- 1) The Doctrine of Alibi was explained by the Supreme Court

"The Supreme Court has clarified that the plea of alibi involves demonstrating that the accused could not have been at the scene of the crime because they were present at another location. This defense can only succeed if it is proven that the accused was so far from the crime scene

at the relevant time that their presence at the scene was physically impossible.”

Relevance and Admissibility Under Section 11 of the Evidence Act:

Section 11 of the Indian Evidence Act, 1872, addresses when facts not otherwise relevant become pertinent:

Section 11: Facts Not Otherwise Relevant

Facts that are not immediately relevant can become so under the following conditions:

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

Illustrations:

(a) If the question is whether A committed a crime in Calcutta on a certain day, evidence showing that A was in Lahore on that day is relevant. This fact suggests that it is highly improbable, though not absolutely impossible, that A committed the crime in Calcutta.

(b) If the question is whether A committed a crime and the circumstances indicate that the crime must have been committed by one of A, B, C, or D, any fact that shows the crime could not have been committed by anyone other than A and that B, C, or D are excluded is relevant.

2) In observation of Plea of Alibi

The court said that the defense witnesses are entitled to equal treatment with those of the prosecution.

The Court stated that-

“The defense witness’s testimony, even if accepted at face value, contradicts the appellant’s claim of being at the Naini factory at 8:30 AM and at the crime scene at 9:00 AM, given the short distance between the two locations. Factory workers punch their cards when they enter, but there is no requirement to record the time of their exit. It is likely that the appellant arrived at the factory at the scheduled time, left shortly afterward, and went to the crime scene. He would have been aware of when the deceased would return after dropping Ranjana at school. The appellant probably intended to return to the factory but avoided doing so to prevent the risk of his re-entry time being recorded. As a result, he was arrested around 2:30 PM while loitering near a pan shop in front of the factory. The claim that he was arrested inside the factory is not credible.”

- 3) The Supreme Court relied on the testimony of eyewitnesses Harish Chandra and Ashok Kumar

The court said that-

“Ranjana's evidence clearly shows that Harish Chandra and Ashok Kumar informed her of her brother's murder while she was at school. The events unfolded so rapidly that there was no opportunity for anyone to fabricate or coordinate their accounts. Within ten minutes of the murder, Ranjana was informed by the two eyewitnesses and promptly went to the scene of the crime. Her First Information Report (F.I.R.) was recorded at the police station at 9:45 a.m. Importantly, the details in Ranjana’s F.I.R. align exactly with the testimonies provided by the witnesses in court. The F.I.R., which is a concise document of just a page and a half, notably includes:

- The appellant's attempts to marry Ranjana and his harassment toward her.
- A previous evening quarrel between the appellant and the deceased, during which the appellant threatened the deceased's life.
- Ranjana's departure for school at 8:45 a.m. on the day of the incident.
- The subsequent meeting with Harish Chandra and Ashok Kumar at the school, where they described witnessing the appellant shooting the deceased while passing along the road near Hathi Park.”

IX. CONCLUSION

This judgment in *Dudh Nath Pandey vs State of Uttar Pradesh* has traversed all sensitive issues on criminal justice, especially those related to the admissibility of confession and reliability of the evidence of eyewitnesses. In doing so, it enunciates important principles that have profound effects on Indian criminal jurisprudence.

Key Aspects of the Judgment:

- **Voluntary Confessions:** The Court made it clear that the confession shall be admissible only when it is voluntary, and not the result of any kind of inducement. Once again, the judgment reiterated the proposition that a confession is not valid if it was induced by any undue pressure or threat and cannot form the basis of conviction. This principle safeguards against wrongful convictions and ensures that confessions used in court are truly reflective of the will of the accused.
- **Critical Evaluation of Eyewitness Testimony:** The Court laid emphasis on the critical

evaluation of eyewitness accounts. Though the eyewitness testimony is of considerable importance, it is to be critically analyzed with a view to testing its trustworthiness and reliability. Through the judgment, the court recognized that the witness may not always be reliable due to factors such as memory lapse or other prejudices. Thus, their evidence has to be judged in the light of other available corroborative pieces of evidence and other circumstances of the case.

- Requirement of Corroborative Evidence: The judgment categorically laid down that a confession or eyewitness evidence alone is inadequate to warrant conviction. There must necessarily be corroborative evidence to confirm the allegations made in the confessional statement or eyewitness account. This requirement thus provides assurance that the conviction is based on a full and reliable body of evidence, not on any isolated or possibly flawed statement.

Implications for Indian Criminal Jurisprudence:

This judgment goes a long way in impacting the criminal justice administration in this country. It puts very high standards for the admissibility of the confession and assessment of evidence by eyewitnesses, thus ensuring fairness and accuracy in criminal trials. This judgment prevents wrongful convictions and secures the rights of the accused by mandating corroborative evidence.

This ruling is also an important safeguard for the retention of the integrity of the judicial process and for ensuring that convictions are based on some reliable and substantial evidence. It emphasizes that justice has to be administered with care—to respect the rights of the accused while ensuring that truth is determined and upheld without error.
