



DISSERTATION

ON

**Circumstantial Evidence in the Law of Evidence in Bangladesh: An
Analysis of its Scope, Content, and Value**

Course Title: Supervised Dissertation

Course Code: LAW 406

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ID: 2018-2-66-034

Date of Submission: 19-05-2022

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Acknowledgement

To begin with, I would want to express my gratitude to all of my law department faculty members who assisted me in overcoming my flaws throughout my journey of studying law. I would want to express my gratitude and appreciation to my supervisor, Dr. Nabaat Tasnima Mahbub (Assistant Professor, Department of Law, East West University). This dissertation would not have been completed without her support and suggestions. Also, I would want to express my gratitude to my family and friends who encouraged me and prayed for me. Last but not least, I would like to thank our Almighty for the good health that was necessary for the research.

Declaration

I, Shaila Pervin Sharna, with student ID 2018-2-66-034, declare that I am the author of the dissertation "Circumstantial Evidence in the Law of Evidence in Bangladesh: An Analysis of its Scope, Content, and Value." This is my original work, and all sources of information used in this paper have been properly cited. This work has not been published in any journal, newspaper, or article.

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Abstract

In both criminal and civil proceedings, evidence plays a significant role in establishing guilt. In courts of law, there are two basic forms of evidence, such as: direct evidence, which does not require an inference to draw a conclusion from the evidence; and indirect evidence, also known as circumstantial evidence, which requires an inference to draw a conclusion from the evidence. Circumstantial evidence describes a situation in which a witness is unable to directly inform you of a fact that must be established. Instead of providing direct facts, the witness provides evidence of particular facts that can help the fact finder to reach a rational decision. In most cases, direct evidence is inaccessible; hence, the prosecution would rely on circumstantial evidence. Public opinion holds that circumstantial evidence is a weaker form of proof that bears less weight than direct evidence. There is a fear that circumstantial evidence could result in an erroneous conviction. This dissertation, therefore, tries to look into and understand the concept, scope, and value of circumstantial evidence in a much more detailed way. It tries to learn about the history of circumstantial evidence, look at what it takes to prove its worth in a dispute, and look at the laws that apply to it.

List of Abbreviations

AD	Appellate Division
AIR	All Indian Report
CJ	Chief Justice
DLR	Dhaka Law Report
HC	High Court
J	Justice
MLD	Monthly Law Digest
PCrLR	Pakistan Criminal Law Journal
SC	Supreme Court
SCC	Supreme Court Cases
Uk	United Kingdom
UP	Uttar Pradesh
USA	United States of America
YLD	Yearly Law Digest

Chapter 1

Introduction

1.1 Background of the Study

The word "evidence" refers to an important piece of information that must be used to show whether a defendant or accused person is guilty or innocent. Evidence is important in every dispute because it helps people come to the right conclusion in that case. Most of the time, evidence is categorized as "direct and circumstantial."¹ The Evidence Act of 1872 doesn't specifically talk about or define the two types of evidence, but as a general rule, evidence is always categorized in this way. Most cases have both types of evidence, but circumstantial evidence is found more often than direct evidence. There are a lot of different things that can be linked together to make this type of evidence more subjective and vague than direct evidence.

According to popular belief, circumstantial evidence isn't always enough to convict someone of a crime. People all over the world agree with this kind of law, not just in Bangladesh. It doesn't matter how many pieces of evidence there are, but how good they are. Direct evidence does not always lead to a conviction. In the same way, if the claimant only has circumstantial evidence and no direct evidence, it doesn't mean that he or she can't be found guilty. That's why the two kinds of proof each weigh about the same in terms of how important they are. Considering the important role circumstantial evidence plays in determining whether or not someone is guilty or not guilty, this research tries to look into and understand this concept, scope, and value in a much more detailed way. It tries to learn about the history of circumstantial evidence, look at what it takes to prove its worth in a dispute, and look at the laws that apply to it. The dissertation also looks at circumstantial evidence from both Bangladesh and an international point of view by looking at important decisions.

¹ Anjali Catherine, 'Detailed Study of Circumstantial Evidence'(Black and White Journal,30 May 2021)<<https://bnwjournals.com/2021/05/30/detailed-study-of-circumstantial-evidence/>> accessed 10 April 2022

1.2 Research Question

The aim of this dissertation is to find out the answer to the following question:

What is the scope, content, and value of circumstantial evidence in Bangladesh?

1.3 Research Justification

The trial system is solely based upon evidence. A conviction would be wrongful if it were not based upon proper analysis of the evidence presented before the court. As a result, the court has to be very careful in order to convict an accused on the basis of the evidence presented before the court. In criminal trials, the offence against which the accused is charged may be established through direct or circumstantial evidence, or through a combination of the two. However, direct evidence is extremely difficult to get in most cases. As a result, the prosecution would rely on circumstantial evidence to establish its case against the defendant. Also, in most cases, charges against the accused are dropped for lack of direct evidence. In those cases, the judges should focus on circumstantial evidence carefully to ensure justice, because otherwise justice cannot be served. In most cases, direct evidence is extremely difficult to get and the prosecution needs to rely on circumstantial evidence. Also, there is a myth that circumstantial evidence is less reliable than direct evidence and may lead to wrongful conviction. Thus, this research tries to look into and understand the concept, scope, and value of circumstantial evidence in a much more detailed way.

1.4 Research Methodology

The research will be conducted following the qualitative method. This research will be based on critical and analytical studies of primary and secondary sources. The tools, as in books, journals, articles, domestic statutes, case laws, will be discussed and analyzed to achieve the purpose of this research.

1.5 Literature Review

Muhammad Nazrul Islam, in "Reflections on the Law of Evidence", explained the concept and principles followed by the Court in order to deal with circumstantial evidence through case law as well as all the provisions relating to circumstantial evidence in the Evidence Act, 1872. The

author said that circumstantial evidence is indirect evidence that can be used in court when there is no direct evidence. In most cases, circumstantial evidence cannot be considered as reliable as direct evidence. However, Binyamin Blum, in "Evidence Law: Convictions Based on Circumstantial Evidence," said that some types of circumstantial evidence are more accurate than direct evidence, which leads to fewer false convictions. In "Circumstantial Evidence and the Principle of Last Seen Theory and Motive," Rajib Deb explains the most recent and discussed case on circumstantial evidence in Bangladesh, known as the Shajneen Murder Case. In this case, the trial court convicted all four co-accused on the basis of circumstantial evidence. However, the decision was retracted by the Appellate Court of Bangladesh.

Anjali Catherine, in "Detailed Study of Circumstantial Evidence," said that circumstantial evidence is not expressly mentioned in the Evidence Act, 1872. However, from time to time, courts have clarified the scope of "circumstantial evidence."Md. Alamin and Md. Gajur Rahman, in "An Analysis on the Probative Value of Evidence: A Review," said that direct and circumstantial evidence both stand on the same footing. The author also explained that it is not unlawful to convict someone of a crime solely on the basis of circumstantial evidence if it is of such a kind that it leads to the judgment that the offence was committed alone by the accused.

1.6 Scope and Limitations of the Study

The research paper focuses on circumstantial evidence's value, scope, and content in Bangladesh's perspective. The research didn't cover all the provisions of the "Evidence Act" relating to "circumstantial evidence." The research didn't discuss the role of circumstantial evidence in civil matters. There have been certain limitations while doing this research. The research paper relies on journal articles available on the internet. Due to time limitations and the COVID-19 pandemic, no field work was done. Moreover, the researcher didn't find much work on this topic from Bangladesh's perspective.

1.7 Dissertation Outline

The aim of this research is to look into and understand the scope, content, and value of circumstantial evidence from Bangladesh's perspective in a much more detailed way. The scope, content, and value of circumstantial evidence in Bangladesh's perspective will be the topic of this

research study. The second chapter of this research deals with the origin, meaning, characteristics, elements, laws, and doctrines of circumstantial evidence. In the third chapter, the research will focus on circumstantial evidence's application, scope, and value in Bangladesh. The fourth chapter of this research deals with the application, scope, and value of circumstantial evidence in other countries. Lastly, the fifth chapter infers the overall findings and possible recommendations.

Chapter 2

An Overview of Circumstantial Evidence

2.1 Introduction

Circumstantial evidence is one of the recognized modes of proving a fact. Criminals always try their best to leave no direct evidence while committing an offence. In those cases, circumstantial evidence is the only way to prove a fact. Therefore, circumstantial evidence plays an important role in criminal proceedings in the absence of an eyewitness. Circumstantial evidence is evidence that is connected to a conclusion of fact by an inference. It is circumstantial evidence that can be relied on to point to the presence of a fact rather than directly establish it. In this chapter, the author of the research explains the origin, meaning, characteristics, elements, and doctrine of circumstantial evidence.

2.2 Analysis of the term "Evidence"

Evidence is referred to as 'fact findings' in general. Evidence is an important part of every case in a court of law since every claim or demand made in court must be backed up with evidence or it will be dismissed. The word "evidence" comes from the Latin phrase "Evidens Evidere," which means "clear, apparent, or notorious state of proof."² Sir Taylor defines the law of evidence as the use of argument to prove or disprove any matter of fact.³ The court can draw inferences and reach conclusions based on the various types of evidence to determine whether a charge has been proven beyond a reasonable doubt. The definition of "evidence" in Section 3 of the Evidence Act is not a true definition of the term "evidence," but rather a statement of what the term "evidence" covers.⁴

²Ajay Kumar Sareen, 'Conviction on the Basis of Circumstantial Evidence'(Tygar Law Corporation, 2 August 2020) <<http://www.tygarlaw.com/conviction-on-the-basis-of-circumstantial-evidence/>>accessed 21 March 2022

³Sumit Kumar Suman, 'The Concept and Historical Background of Evidence Law'(Academike Articles on Legal Issues, 14 April 2015)<https://www.lawctopus.com/academike/concept-historical-background-evidence/?fbclid=IwAR2TWkMf4CFSXfKzwo0CaNhlkJCCO7ER9IHbUVpLfmIfVbYQhBNVNICVy8k#_edn3>a accessed 10 March 2022

⁴ ibid

As per section 3 of the Evidence Act, 1872, "evidence" means and includes:

1) All statements made before the court by witnesses in connection to matters of fact under investigation are known as "oral evidence."

2) Documentary Evidence refers to all documents produced for the court's perusal.

Evidence refers to anything by which the existence or nonexistence of a fact is proved in court. However, nothing is evidence unless it fits inside the four corners of the Evidence Act, even if it makes the judge believe it is real.⁵

2.3 The Origin of Circumstantial Evidence

Circumstantial evidence can't be traced back to its origin with any accuracy. From the Roman-canonist perspective up to the 15th century, circumstantial evidence, on the whole, was not given much weight due to its ambiguities, and conviction on the basis of circumstantial evidence was impossible.⁶ A major change in the approach to circumstantial evidence occurred in the sixteenth century.⁷ In England, juries gradually switched their attention from "personal knowledge" to "evaluation of evidence."⁸ Even though the courts initially doubted the importance of indirect evidence, they eventually accepted it and became reliant on it. However, Treatises on English Law rapidly realized that crimes like poisoning, rape, and other such crimes could only be proven by circumstantial evidence.⁹ Circumstantial evidence was well-known and recognized by the legal community by the sixteenth century.¹⁰

Circumstantial evidence was established indirectly in Bangladesh through the Evidence Act, 1872. English judge Sir James Stephen first used the term "circumstantial evidence." He said that "circumstantial evidence" was facts that are relevant to the other facts or that can be proven by other facts.¹¹

⁵ Muhammad Nazrul Islam, Reflections on the Law of Evidence (3rd Edition, Kamrul Book House, 2021) 9

⁶ Catherine (n 1)

⁷ Catherine (n 1)

⁸ Catherine (n 1)

⁹ Catherine (n 1)

¹⁰ Catherine (n 1)

¹¹ Catherine (n 1)

2.4 Circumstantial Evidence: Meaning, Characteristics and Elements

2.4.1 Meaning

The term "circumstantial evidence" is not defined in the Evidence Act, 1872, but rather it provides the manner in which and when circumstantial evidence may be used in court. The meaning of circumstantial evidence has evolved over time as a result of the interaction of numerous statutes and court judgments.¹² Circumstantial evidence refers to a situation where a witness can't directly tell you about the fact that needs to be shown to you. It is evidence that strongly implies but does not prove something. It helps people make sense of a fact or the events that took place.

Circumstantial evidence is anything that helps the judge form a picture of the incident or crime. For instance, a witness' testimony that she saw the defendant escape the crime site shortly after hearing gunshots would constitute circumstantial evidence. Even in the absence of an eyewitness to the incident, these pieces of evidence, when combined, clearly point to the accused's guilt. Examples of circumstantial evidence include motive or plan, knowledge, capacity, opportunity, suspicious behaviour, lies, preparatory acts, previous conduct, possession of incriminating articles, absence of explanation, failure to give evidence or call a witness, finger prints, bodily samples, DNA tests, and tracker dogs.¹³ Circumstantial evidence requires you to believe the witness as well as examine the conclusions that can be formed in light of the evidence provided.¹⁴

¹²Shivi Mishra, 'A Study of Direct Evidence and Circumstantial Evidence with Special Reference to Aarushi Talwar Case' (2021) 4 (3) International Journal of Law Management & Humanities 950,951

¹³ Sowed Juma Mayanja, Circumstantial Evidence and It's Admissibility in Criminal Proceedings: A Comparative Analysis of the Common Law and Islamic System (2017) 67 Journal of Law, Policy and Globalization 2224

¹⁴ Mishra (n 12) 952

2.4.2 Characteristics and Elements

The characteristics of circumstantial evidence have been highlighted by the Indian and Bangladeshi Supreme Courts through various judgments, and these characteristics are as follows:¹⁵

1. Circumstantial evidence is also known as "indirect evidence."
2. It could have several explanations or lead to several conclusions.
3. It is proof of facts offered as evidence from which other facts can be inferred.
4. It can be used as the sole basis for a conviction.
5. Testimony can be direct or circumstantial evidence.
6. Circumstantial evidence lets a judge of fact figure out if a fact is true.

In case¹⁶, the Supreme Court of India held that the following four conditions must be met in order to establish guilt by circumstantial evidence:¹⁷

1. The circumstances establishing guilt must be fully established.
2. All the facts must be consistent with the hypothesis of guilt and inconsistent with innocence.
3. The circumstances must be conclusive in nature and tendency, and
4. The circumstances must actually exclude all hypotheses with a moral certainty.

¹⁵Rajib Dev, 'Circumstantial Evidence and the Principle of Last Seen Theory' (Lawyers Club Bangladesh.Com, 30 March 2019)<http://lawyersclubbangladesh.com/en/2019/03/30/circumstantial-evidence-and-the-principle-of-last-seen-theory-and-motive/?fbclid=IwAR1bp673wVKjPgFDuGyrdK0w2rG9TE0BIFdluIT26p__2zMt67cCCUjAhE> accessed 15 March 2022

¹⁶ State of UP v. Ravindra Prakash Mittal, AIR 1992, SC 2045.

¹⁷Neetij Rai, Circumstantial Evidence, Its elements and Application (14 May, 2015) <<http://dx.doi.org/10.2139/ssrn.1831383>> accessed 15 March 2022

In the delivery of justice, circumstantial evidence is essential. However, it must be kept in mind that such evidence must meet the basic requirements in order to be accepted as evidence. Various case laws have explored the basic elements of circumstantial evidence, which are listed below:¹⁸

1. There must be a chain of evidence that shows that the accused must have done the thing that they are accused of.
2. All of the facts that are found should be consistent only with the idea that the accused is guilty and not with the idea that he is innocent.
3. Circumstances should be of a conclusive type;
4. The circumstances should rule out the guilt of anyone other than the accused;
5. Circumstantial evidence should never be presumptive.

2.5 Laws and Doctrines: Forms of Circumstantial Evidence

Circumstantial evidence is made up of some essential doctrines and laws that help clarify it even more. They are assessed in order to determine the strength and admissibility of the evidence that has been given to the court.

2.5.1 Last Seen Doctrine

The doctrine of the last seen is a sort of circumstantial evidence that can be used to support a claim.¹⁹ For example, if A was last seen with B shortly before his murder, it can be assumed that A murdered B under this argument because A had enough opportunity to commit the crime. But this is not sufficient proof of guilt and can be rebutted by the accused.

To show guilt under this doctrine, it is necessary to examine the surrounding circumstances in order to establish connections between the various events.²⁰ Corroborating evidence must exist for this theory to be recognized in court.²¹ In “Niranjan Panja v. State of West Bengal”²² the court found that proximity between the time of death and the last time the accused was seen

¹⁸ *ibid*

¹⁹ Catherine (n 1)

²⁰ Catherine (n 1)

²¹ Catherine (n 1)

²² 6 SCC 525 (2010)

together is crucial to building the accused's liability.²³ Moreover, in the case of "**State of Rajasthan v. KashiRam**"²⁴ it was said that if the following circumstances are met, the individual may be convicted solely on the basis of the last seen theory:²⁵

1. If the last seen theory is true, the accused must be able to show and explain how he left the person who died.
2. If no specific explanation of the circumstances is provided, the court may draw an unfavourable inference in this case.
3. If the motive for the murder is also known, a key piece of evidence in the chain of evidence is in place, which is important.

In the case of **SurajdaoMatho v State of Bihar**,²⁶ the court relied on the rules mentioned in the above case and convicted the accused on the basis of the last seen doctrine.²⁷ The doctrine is also applied in Bangladesh and in the "**Shajneen murder case**"²⁸ It was determined that the last seen theory is a type of circumstantial evidence and that if all the facts contradict the accused's innocence, he can be convicted on that basis.²⁹ Last seen theory is an important part of circumstantial evidence and this theory can be used to support a claim.

2.5.2 Abnormal Conduct of Accused

This is another method of establishing circumstantial evidence. The accused's behavior is critical in corroborating or establishing circumstantial evidence.³⁰ False alibis, refusal to disclose the location, or any other type of information that undermines the 'presumption of innocence' constitutes abnormal behavior.³¹

²³ Catherine (n 1)

²⁴Appeal (CrL.) 745 of 2000 (2006)

²⁵Pranjali Aggarwal, 'Last Seen theory under Indian evidence Law' (Ipleaders,2 September 2021)

<<https://blog.ipleaders.in/last-seen-theory-indian-evidence-law/#:~:text=And%20as%20the%20settled%20law,the%20guilt%20of%20the%20accused.>> accessed 11 May 2022

²⁶Criminal Appeal No.1677 of 2011

²⁷ Aggarwal (n 25)

²⁸ Syed Sajjad Mainuddin Hasan v State 70 DLR (AD) (2018)

²⁹ Aggarwal (n 25)

³⁰ Anushka, 'Circumstantial Evidence' (Law Times Journal, 29 March 2017)

<<https://lawtimesjournal.in/circumstantial-evidence/>>accessed 20 April 2022

³¹ ibid

2.5.3 Burden of Proving Facts Especially within Knowledge

Circumstantial evidence is not defined under the Evidence Act, as previously stated. However, Section 106 of the Act establishes a form of circumstantial evidence.³² According to this section, the person suspected bears the burden of establishing a fact about which they have unique or special knowledge.³³ This, too, is circumstantial evidence, as it cannot establish the accused's guilt. It requires circumstantial evidence to establish it as a fact. For instance, in criminal law, the individual who discovers a body in their home bears the burden of establishing innocence.

2.6 Conclusion

Circumstantial Evidence was recognized by legal committee by the sixteenth century since then it has been used as a means of proving fact. However, it is important to remember that such evidence must meet all of the necessary requirements before it may be accepted as proof. The law requires that any inference of guilt based on circumstantial evidence be inconsistent with any reasonable inference of the accused's innocence. This means that circumstantial evidence must show that the accused must have committed the crime for which he is charged, rather than could have.

³² Anushka (n 30)

³³ The Evidence Act, 1872 (Act No. I of 1872) s 106

Chapter 3

Circumstantial Evidence: Scope, Content, and Value in Bangladesh

3.1 Introduction

It is already discussed in this research paper that a fact needs to be proved or disproved through evidence and Circumstantial evidence is one of the prescribed methods of proving facts in court. Also, circumstantial evidence is evidence derived from facts that are so closely linked to the fact under consideration that it is fair to infer their presence from the fact under consideration. To put it another way, it refers to relevant facts. Circumstantial Evidence must meet all necessary elements before it can be used as a proof. Now, this chapter will discuss the scope, content, and value of circumstantial evidence in Bangladesh.

3.2 Scope and Content of Circumstantial Evidence

Circumstantial evidence can be used to establish a fact. Circumstantial evidence only needs to establish that the accused committed the offense for which he is charged. Circumstantial Evidence is a type of indirect evidence that is admitted in the absence of direct evidence.³⁴If circumstantial evidence convincingly establishes the accused's guilt, it might serve as the sole basis for conviction.³⁵The underlying principle of criminal law is that circumstantial evidence must necessarily lead to the conclusion that the accused and only the accused were the offender's preparators, and such evidence must be incompatible with the accused's innocence.³⁶Sections 6-16 of the Evidence Act, 1872 deals with circumstantial evidence. Section 6 provides that circumstantial evidence is included in the same transaction as facts that, while not in dispute, are so closely related to a 'fact in dispute' that they are intrinsic to the same transaction and thus relevant, regardless of whether they occurred at the same time and place or at different times and locations as defined in section 6 of the Evidence Act.³⁷

Section 7 states that circumstantial evidence includes events that are the occasion, cause, or effect of the disputed facts, or that constitute a state of things or provide an opportunity for the

³⁴Islam (n 5) 276

³⁵ Mishra (n 12) 956

³⁶Taslimuddin v State 44 DLR (1992) HC 136

³⁷ The Evidence Act,1872 (Act No. I of 1978) s 6

occurrence of the disputed facts.³⁸ The facts constituting the state of things refer to the circumstances surrounding the occurrence of a fact in dispute. On the other hand, opportunity is a circumstance that tends to prove that the accused was physically and conveniently present within the required range of time and place for the commission of the crime.³⁹ If, on the other hand, the opportunity was proved to be exclusive, meaning that no one other than the accused was there at the time of the incident, such exclusive opportunity is used as conclusive circumstantial evidence of the accused's guilt.

According to section 8 of the "Evidence Act, 1872," motive, preparation, and prior and subsequent conduct can all be important circumstantial evidence. When sufficient direct evidence is found against the accused, his motive is often eliminated from admissibility as immaterial, and no evidence is admitted for or against its existence or non-existence.⁴⁰ The presence of a motivation raises the presumption of guilt, while the absence of a motive strengthens the accused's presumption of innocence. The existence of a motive alone isn't enough to prove that someone is guilty because it can't stand alone as proof.⁴¹ Similarly, where all other evidence clearly implicates the accused, the absence of motive does not excuse the allegation.⁴² In the case of "**State vs. Lalu Miah**"⁴³ Shahabuddin Ahmed, J. (later C.J.) said that in a case where the prosecution relies mostly on circumstantial evidence, the motive of the accused to commit the crime is very important.⁴⁴ In other cases, such as when the prosecution wants to link the accused to the crime through direct evidence, the prosecution doesn't need to prove the motive.⁴⁵

In "**Hazer Ali v. State**"⁴⁶, the entire case and conviction were dependent on circumstantial evidence, primarily the accused's declaration of his intention to murder the deceased.⁴⁷ The declaration made by the accused is a piece of circumstantial evidence in this case. And, in affirming the conviction and sentence imposed on the accused Chowdhury ATM

³⁸ The Evidence Act, 1872 (Act No. I of 1872) s 7

³⁹ Islam (n 5) 25

⁴⁰ Islam (n 5) 29

⁴¹ Islam (n 5) 29

⁴² Islam (n 5) 30

⁴³ 39 DLR AD 117

⁴⁴ Islam (n 5) 32

⁴⁵ ibid

⁴⁶ 37 DLR AD 27

⁴⁷ Islam (n 5) 34

Masud stated that, taking into account all of the evidence, facts, and circumstances of the case, the lower courts committed no error in concluding that the aforementioned evidence was sufficient to find the accused guilty.⁴⁸ In the case of “**Ayub Ali Sheikh v State**” it was said that the accused's absconding in some circumstances can be critical circumstantial evidence, it does not always imply guilt.⁴⁹

The law permitted circumstantial evidence as a means of proving facts. The Court relies on circumstantial evidence when there is no direct evidence. Moreover, a verdict can be given on the basis of circumstantial evidence if it establishes the accused's guilt beyond reasonable doubt. Motive, opportunity, subsequent and prior conduct of the accused, preparation, all these form circumstantial evidence.

3.3 Circumstantial Evidence's Evidentiary Value

In criminal trials, the offence against which the accused is charged may be established through direct or circumstantial evidence, or through a combination of the two. However, direct evidence is extremely difficult to get in the majority of cases. As a result, the prosecution would rely on circumstantial evidence to establish its case against the defendant. Naturally, the question arises as to whether it is safe to convict someone against whom no direct evidence exists and the case is solely circumstantial. The answer is given in the **State vs. Ali Kibra**, where it is said that in order for circumstantial evidence to be sufficient as a basis for conviction, the facts must be compatible with the accused's innocence and incapable of being explained by any other reasonable possibility than his guilt.⁵⁰ In addition, in the case of **Kamal vs Nandlal**⁵¹ it is said that it is not unlawful to convict someone of a crime solely on the basis of circumstantial evidence if that evidence is of such a kind that it leads to the judgment that the offence was committed alone by the accused.⁵²

⁴⁸ Islam (n 5) 34

⁴⁹ 63 DLR (2011) HC 55

⁵⁰ 43 DLR (1991) 512

⁵¹ Kamal vs Nandlal 91929) A.I.R Cal 37

⁵² Md. Alamin and Md. Gajjur Rahman, An Analysis on the Probative Value of Evidence: A Review (2015) 20 (11) IOSR – JHSS 57,59

3.3.1 Circumstantial Evidence: Less Valuable than Direct Evidences

As a means of proving fact, both circumstantial evidence and direct evidence are permissible under the law. Humans tend to undervalue circumstantial evidence over direct evidence, even when there is no rationale for it.⁵³ However, circumstantial evidence shows additional facts from which the existence of material elements might be inferred. The common law does not compare the two in terms of weight.⁵⁴ Circumstantial evidence alone may be enough to convict someone of a crime.⁵⁵ There's no reason to think circumstantial evidence is less reliable than direct evidence.⁵⁶ Some studies have found that some types of circumstantial evidence are more accurate than direct evidence, which leads to fewer false convictions.⁵⁷ According to one study, direct evidence has been used in 68 percent of known wrongful convictions, while circumstantial evidence was used in only 9 percent⁵⁸. Even the Supreme Court of Bangladesh held in the case of “**State v Moslem**” that circumstantial evidence can be, and frequently is, more convincing than eyewitness testimony.⁵⁹ It is not difficult to fabricate eyewitness testimony, but it is extremely difficult to establish circumstantial evidence that is convincing, and circumstantial evidence, when convincing, is more cogent than eyewitness testimony.⁶⁰ The same thing is also said by the Supreme Court of Pakistan in the case of “**Abdul Karim v. Noor Muhammad.**”⁶¹ Moreover, in the case of **Templin v State** it was held that circumstantial is as valuable as direct evidence in order to establish guilt of an accused.⁶² Still, there is a fear that circumstantial evidence can mislead juries and result in unjust convictions.⁶³

The law does not favor one type of evidence over another. In any case, it depends on the case how much weight is given to direct and circumstantial evidence. These vary depending on the specifics of each instance. Circumstantial evidence is frequently discussed since it is less reliable than direct evidence. But this isn't necessarily the case in practice or legislation.

⁵³ Binyamin Blum, Evidence Law: Convictions based on Circumstantial Evidence (2019) 3 (11) The Jungle Book 63
⁵⁴ ibid

⁵⁵ Blum (n 53) 64

⁵⁶ Blum (n 53) 64

⁵⁷ Blum (n 53) 64

⁵⁸ Blum (n 53) 64

⁵⁹ 55 DLR 116

⁶⁰ ibid

⁶¹ [1990] MLD 2073 Karachi

⁶² *Templin v State*, 711 S.W.2d 30,33(Tex.Crim.App.1986)

⁶³ Blum (n 53) 64

3.3.2 Circumstantial Evidence: The Ground for Conviction

The central principle of evidence law is that "evidence is weighed, not counted." The quality and conclusive nature of evidence are critical factors in a trial. Thus, if a trial is solely based on circumstantial evidence that is conclusive in nature, it can serve as the sole basis for conviction. The court of Bangladesh in the case of Abdus Samad v State⁶⁴ found the accused guilty on the basis of circumstantial Evidence.⁶⁵ Also, in Shajneen Murder⁶⁶ case the trial court convicted all four co-accused of the death penalty based on circumstantial evidence, which was affirmed by the High Court Division as well.⁶⁷ However, the Appellate Division concluded that both the trial court and the High Court Division failed in convicting the four co-accused on the basis of circumstantial evidence and acquitted all the rest four co-accused, but the Appellate Division sustained Shahid's (Principle accused) death sentence.⁶⁸ Hazer Ali v. State⁶⁹ the entire case and conviction were dependent on circumstantial evidence, primarily the accused's declaration of his intention to murder the deceased.⁷⁰

In the case of "Bodh Raj vs State of Jammu Kashmir case"⁷¹, the Indian Supreme Court held that circumstantial evidence can serve as the sole basis for conviction if the following conditions are fully established and the conditions are as follows:⁷²

1. The circumstances leading to a conclusion of guilt should be fully established. The circumstances in question "must" or "should" be established, not "may."
2. The established facts must be consistent with the accused's guilt hypothesis.
3. Circumstances should be conclusive in their nature and proclivity.
4. They should rule out all alternative hypotheses except the one being tested.

⁶⁴ 16 DLR SC 261

⁶⁵ Islam (n 5) 279

⁶⁶ Syed Sajjad Mainuddin Hasan vs State 70 DLR (AD) (2018)

⁶⁷ ibid

⁶⁸ Syed (n 66)

⁶⁹ 37 DLR AD 87

⁷⁰ Islam (n 5) 34

⁷¹ AIR (2002) SC 316

⁷² Neeti Gupta, Circumstantial Evidence: Beyond Reasonable Doubt (20 March 2019)

<<https://www.legalserviceindia.com/legal/article-3537-circumstantial-evidence-beyond-reasonable-doubt.html>> accessed 26 March, 2022

5. There must be a chain of evidence that is so conclusive that it precludes any reasonable conclusion consistent with the accused's innocence and that establishes that the act must have been committed by the accused in all human probability.

Moreover, this approach was accepted by the court in “**Umedbhai v. State of Gujarat**”⁷³ It was concluded here that in absence of direct proof, circumstantial evidence can serve as the only ground for conviction.⁷⁴ In another case, “**Khem Karan vs. State of Uttar Pradesh**”⁷⁵, the court held that where all the evidence and circumstances point to the offender's guilt and there is no room for an alternate hypothesis, the accused may be convicted solely on the basis of circumstantial evidence.⁷⁶ The central principle of evidence law is that "evidence is weighed, not counted." The quality and conclusive nature of evidence are critical factors in a trial. Thus, if a trial is solely based on circumstantial evidence that is conclusive in nature, it can serve as the sole basis for conviction.

3.4 Judicial Decision Regarding Circumstantial Evidence in Bangladesh

In most of the judicial decisions with regard to circumstantial evidence, the court tries to set some principles for dealing with circumstantial evidence. In “**Mustain Mollah vs. the State,**”⁷⁷ his Lordship Qazi Shafiuddin, J., set out the following important rules for dealing with circumstantial evidence:⁷⁸

- When dealing with circumstantial evidence, it is important to remember the rules that apply. There is always a risk that supposition or suspicion will take the place of legal proof in such circumstances.
- When circumstantial evidence is used to show guilt, the circumstances from which the conclusion of guilt is to be formed should first be completely established, and all facts thus produced should be consistent with the accused's hypothesis of guilt.

⁷³ AIR SC 424

⁷⁴ Catherine (n 1)

⁷⁵ AIR 1966 All 255

⁷⁶ Mishra (n 12) 956

⁷⁷ 42 DLR 295

⁷⁸ Islam (n 5) 285

- Again, the circumstances should be convincing in character and tendency, and they should be such that they rule out all other hypotheses except the one being proved.
- When considering the evidentiary effect of circumstances, the court must guard against the temptation to substitute suspicion or to supply missing links in the chain of guilt.
- When evaluating the circumstances, the court must determine whether the prosecution's evidence establishes the sole and certain inference of the defendant's guilt, whether the prosecution's evidence is consistent with the defendant's innocence, and whether the inference from the totality of the circumstances precludes all reasonable possibility of the defendant being innocent. Simply adding one condition to another without the accused's complicity results in nothing, and such a chain of occurrences has no detrimental effect on the inculpatory element contributing to the accused's criminal responsibility.

In the case of “**Taslimuddin Vs. State**”⁷⁹, the court held that no man is to be found guilty on circumstantial evidence unless the circumstances established against him are such that no reasonable hypothesis other than guilt can be built upon them.⁸⁰ Circumstantial evidence must be strong enough to rule out the possibility that the accused person is not guilty held in “**State v Balai Chandra Sarker**.”⁸¹ The accused's absconding in certain circumstances can be crucial circumstantial evidence, but it does not necessarily draw an inference of guilt in each and every case held in “**State vs. Ayub All Sheikh**”⁸² In the case of “**Bablu vs State**” the court said that last seen together is a weak type of circumstantial evidence on which to have a conviction, a link between the accused and the murderer has to be proved.⁸³

From the above judicial decisions, it is clear that the supreme courts of Bangladesh have reviewed and analyzed circumstantial evidence in a number of cases. These case decisions help to clarify the concept, scope, content, and value of circumstantial evidence in Bangladesh. In addition, all these decisions indicate that circumstantial evidence should be used with caution. Otherwise, an innocent person may be punished by the court.

⁷⁹44 DLR (1992) 136

⁸⁰ Islam (n 5) 276

⁸¹ 47 DLR (1995) HC 467

⁸² 63 DLR (2011) HC 55

⁸³ 60 DLR (2008) HC 583

3.5 Conclusion

Every case in court has a factual basis. To do justice, judges must evaluate the facts using the evidence provided. The evidence may not always be direct. In such cases, the court relies on indirect or circumstantial evidence. Circumstantial evidence is generally considered weak, yet it is not. However, it should be used with caution. Circumstantial evidence must meet certain criteria. To decide any matter, the court should closely follow these elements. When the court looks at the circumstances, it has to be very careful. If it doesn't, an innocent person could end up being punished by the court, which is against the very foundation of justice. Considering the above discussion, it is clear that the Bangladesh courts rely on circumstantial evidence. The courts appear to carefully study the circumstances surrounding the event and draw inferences in order to avoid any possibility of a miscarriage of justice. In the absence of direct evidence, courts consider circumstantial evidence with caution to avoid causing any difficulty. Thus, circumstantial evidence appears to be important to evidence law.

Chapter 4

Application of Circumstantial Evidence in Other Countries

4.1 Introduction

Like Bangladesh, circumstantial evidence is used in almost every country. The Bangladeshi viewpoint on this type of evidence is broadly in line with the worldwide viewpoint. There isn't a lot of ambiguity in this concept. It would be acceptable if the evidence offered could be linked to the main fact in such a way that it could be accepted as a separate fact. In this chapter, the author of the research explains the application of circumstantial evidence in other countries.

4.2 International Perspective

The Case of the Corfu Channel⁸⁴ sets out how to deal with circumstantial evidence.⁸⁵ In this case, the United Kingdom brought the action against Albania, accusing it of being responsible for the mines in the Corfu Canal, which connects Albania and Greece. Thus, circumstantial evidence was utilized to establish Albania's knowledge of the minefield's presence.⁸⁶ Thus, the court of international law relied on circumstantial evidence in bringing the case on behalf of the relevant parties.⁸⁷ However, in the Nicaragua case,⁸⁸ it was established that circumstantial evidence alone is insufficient to establish a case in the absence of direct proof.⁸⁹ Unlike in the Corfu case, circumstantial evidence was rarely relied upon in other cases.⁹⁰ For example, in the case of the Genocide Convention,⁹¹ circumstantial evidence established that Serbia committed genocide. However, the court imposed no liability on Serbia based on the evidence and thus held that Serbia failed to prevent and punish genocide.⁹²

⁸⁴ Corfu Channel Case (United Kingdom v Albania); Assessment of compensation I.C.J. Reports [1949], 244

⁸⁵ Neha Choudhary, 'Circumstantial Evidence: How is it dealt with in UK and the USA?' (Law Insider, 25 August 2021) <<https://www.lawinsider.in/columns/circumstantial-evidence-how-is-it-dealt-with-in-the-uk-and-the-usa>> accessed 28 April 2022

⁸⁶ *ibid*

⁸⁷ Choudhary (n 85)

⁸⁸ Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America), Merits, Judgement, I.C.J. Reports [1986], 14

⁸⁹ Choudhary (n 85)

⁹⁰ Choudhary (n 85)

⁹¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro), Judgement, I.C.J. Reports [2007], 43

⁹² Choudhary (n 85)

As a result, it seems that the court of international law has two approaches regarding circumstantial evidence as well as it barely rely on circumstantial evidence.

4.3 Application of Circumstantial Evidence in Other Countries

Circumstantial evidence is used in almost every country. The scope, application, and value of circumstantial evidence in India, Pakistan, Nepal, the UK, and the USA will be discussed by looking at important case decisions.

4.3.1 India

In India, it is established law that when circumstantial evidence is applied, the conclusion of guilt must be entirely proved, and the circumstances established must be conclusive and consistent exclusively with the accused's hypothesis of guilt, and no other hypothesis or theory should be able to explain the facts of the case logically.⁹³ In **Bodh Raj v. State of Jammu & Kashmir**⁹⁴ the Court stated that certain elements must be met in order for a conviction to be purely based on circumstantial evidence which means circumstantial evidence can be the sole basis for conviction.⁹⁵ In addition to these, the Indian Supreme Court developed some principles for dealing with circumstantial evidence. These are as follows:

The Hon'ble Supreme Court said in **Hanumant V. State of Madhya Pradesh**,⁹⁶ there might be a chain of evidence that is so thorough that it leaves no reasonable foundation for a conclusion consistent with the accused's innocence, and it must be such that it establishes that the conduct must have been committed by the accused within all reasonable human likelihood.⁹⁷ In **Bishnu Prasad Sinha v. State of Assam**,⁹⁸ the Supreme Court effectively recognized the idea that, generally, the death penalty would not be granted if the connection is proven by circumstantial evidence.⁹⁹ As a general rule, the death penalty should not usually be given in cases where there is circumstantial evidence, but there must be some "special reason" for giving

⁹³ Gupta (n 72)

⁹⁴ AIR (2002) SC 316

⁹⁵ Catherine (n 1)

⁹⁶ AIR 1952 SC 343

⁹⁷ Sareen (n 2)

⁹⁸ (2007) 11 SCC 467

⁹⁹ Sareen (n 2)

the death penalty.¹⁰⁰ This was the case of **Aloke Nath Dutta vs. the State of West Bengal**.¹⁰¹ As a result of the foregoing discussion, it is not recommended to execute someone based on circumstantial evidence. However, there is no hard and fast rule against the death penalty in a case involving circumstantial evidence.

Without mentioning the **Jessica Lal**¹⁰² and **Priyadarshini Matoo**¹⁰³ case India's perspective on circumstantial evidence would be incomplete. These are two landmark Indian cases that rely heavily on circumstantial evidence.¹⁰⁴ Jessica Lal case was decided on the basis of circumstantial evidence after witnesses became hostile. Manu Sharma was sentenced to life in prison based on a chain of circumstantial evidence establishing his guilt.¹⁰⁵ In Priyadarshini Matoo case, there was very little direct evidence to show that the person who was accused was guilty. However, the circumstances provided enough evidence to show that the person was guilty, which led to the person's conviction.¹⁰⁶

From the above discussion it is clear that in India, they set the foundation for cases that depend largely on circumstantial evidence. The Indian Supreme Court developed various principles for dealing with circumstantial evidence through its judgements. As a result, in India, there isn't a lot of ambiguity about "Circumstantial Evidence."

4.3.2 Pakistan

The supreme courts of Pakistan have reviewed and analyzed circumstantial evidence in a number of cases. Circumstantial evidence is usually used in cases where there is no direct proof.¹⁰⁷ As a result, in order to punish the accused, each circumstance should be related in such a way that the entire evidence forms a continuous chain and no link is broken and if the chain is broken, the accused gets the benefit, as ruled in **Shabbir Ahmad v. State**.¹⁰⁸ In **Binyamin v. the State**,¹⁰⁹ the Supreme Court's Appellate Bench concluded that circumstantial evidence is one of the

¹⁰⁰ Sareen (n 2)

¹⁰¹ (2007) 12 SCC 230

¹⁰² Sidhartha Vashisht alias Manu Sharma v State of NCT of Delhi, 2010 (69) ACC 833 (SC)

¹⁰³ Santosh Kumar Singh v State through CBI 9 SCC [2010] 747

¹⁰⁴ Catherine (n 1)

¹⁰⁵ Catherine (n 1)

¹⁰⁶ Catherine (n 1)

¹⁰⁷ Mahboob Usman and Dr. Muhammad Mushtaq Ahmad, Admissibility of Circumstantial Evidence in Shariah and Pakistani Legal System (2022) 11 JOUR 13,18

¹⁰⁸ [2015] YLR 93

¹⁰⁹ [2007] SCMR 778

acknowledged methods originating in Islam for determining an accused's guilt or innocence.¹¹⁰ If such evidence appeals to logic and reason, it is sufficient to connect the accused with the commission of the offense, and the capital penalty can be granted on that basis.¹¹¹

The court concluded in **Muhammad Rafique v. The State**¹¹² that when circumstantial evidence is used, the failure of one link breaks the entire chain.¹¹³ While relying on circumstantial evidence, Pakistani courts exercised extreme caution and caution, as the LHC correctly stated in **Allah Rakkha v. the State**¹¹⁴ that courts must be extremely cautious and critical in appreciating circumstantial evidence.¹¹⁵ Due to the delicate nature of this exercise, extreme attention and care are required.¹¹⁶ In another case¹¹⁷ the SC stated that in matters involving the death penalty, superior courts have traditionally established strict standards for considering circumstantial evidence.¹¹⁸

Circumstantial evidence appears to be applicable in Pakistan, as it is in India and Bangladesh, and Pakistani courts rely on circumstantial evidence to make a verdict. Besides, both in India and Pakistan, it is accepted that circumstantial evidence can sever the sole basis for conviction if it is conclusive in nature. However, in both countries, it is recommended to award imprisonment instead of the death penalty in cases of circumstantial evidence.

4.3.3 Nepal

In previous years, the Supreme Court of Nepal has rendered decisions on a variety of issues based on circumstantial evidence.¹¹⁹ Several of these instances are highlighted below. In the case of **Charles Sovaraj v. Nepal Government**,¹²⁰ the Supreme Court of Nepal concluded that, "analyzing the procedure used to perpetrate the crime and the nature of the crime, it appears that the criminal was fully conscious and committed the crime in a planned manner." In such a case, the indirect evidence, particularly the circumstantial evidence produced by the prosecutor, should

¹¹⁰ Usman and Ahmad (n 107) 19

¹¹¹ Usman and Ahmad (n 107) 19

¹¹² [1992] PCrLJ 2119 Karachi

¹¹³ Usman and Ahmad (n 107) 20

¹¹⁴ Criminal Appeal No. 45 of 2013 decided on 05.10.2021

¹¹⁵ Usman and Ahmad (n 107) 20

¹¹⁶ Usman and Ahmad (n 107) 20

¹¹⁷ Hashim Qasim v the State,[2017] SCMR 986

¹¹⁸ Usman and Ahmad (n 107) 20

¹¹⁹ Rai (n 17)

¹²⁰ NKP 2067,814

point to the criminal, and because such evidence appears to establish the criminal's guilt, the criminal is to be convicted.¹²¹ Similarly, the Supreme Court of Nepal held in the homicide case of **Malati Devi Kalwar v. Nepal Government**¹²² that “circumstantial evidence should always be direct and not dependent on presumption.”¹²³ Additionally, in **Chandrapraksah Joshi et al. v. HMG16**,¹²⁴ the Supreme Court stated that merely convicting defendants on circumstantial evidence does not mean they are not convicted on a factual basis.¹²⁵ Similarly, in **BachhiBista Chhetri v. Kabindra Bahadur Bista Chhetri**,¹²⁶ the Supreme Court concluded that "sexual behavior between a boy and a girl with their consent is not a public matter, and so no witness is generally discovered." Thus, under such circumstances, the court should rely on the parties' attitudes and other circumstantial evidence to identify sexual activity.¹²⁷ Analyzing these cases, it is clear that the Nepalese courts rely on circumstantial evidence as well. To avoid any possibility of a miscarriage of justice, the courts appear to extensively examine the circumstances surrounding the event and carefully draw inferences.

4.3.4 UK

In the United Kingdom, the judicial court takes into account the rules about which evidence can be used. This principle establishes whether certain evidence is admissible in a court of law and whether the justice system would find the evidence relevant. Thus, prior to presenting any evidence to the court, it must be determined whether it is admissible or inadmissible.

The case of **R vs. Exall**¹²⁸ says that one strand of a cord might not be strong enough to hold the weight, but three strands together might be enough.¹²⁹ If there are a lot of things that make you think someone is guilty, they may be called circumstantial evidence.¹³⁰ This means that there may be a lot of things that don't make you think someone is guilty on their own, but together, they can make a strong case for guilt. Another court decision in the United Kingdom stated that the risk of injustice that a circumstantial evidence direction is intended to address is

¹²¹ Rai (n 17)

¹²² NKP 2064,1600

¹²³ Rai (n 17)

¹²⁴ NKP 2055,111

¹²⁵ Rai (n 18)

¹²⁶ NKP 2034, DN 1052,138

¹²⁷ Rai (n 17)

¹²⁸ [2012] EWCA Civ 334

¹²⁹ Choudhary (n 85)

¹³⁰ Choudhary (n 85)

that (1) speculation may substitute for drawing a certain inference of guilt and (2) the jury would overlook evidence that tends to weaken or even exclude the inference of guilt.¹³¹ However, as the House of Lords observed in *McGreevy*, circumstantial evidence does not fall into any distinct category requiring a different standard of proof and burden of proof.¹³² Whether the evidence is direct or circumstantial, the jury's ultimate question is the same: Has the prosecution established guilt beyond a reasonable doubt on the basis of all available evidence?¹³³ This means, if it appears that circumstantial evidence proved accused's guilt beyond reasonable doubt then verdict can be given based on circumstantial evidence.

In the courts of the United Kingdom, cases are decided in accordance with precedents established by the courts, and so the admission of evidence is determined by the court's pronouncements, relevance, and judgements about the current suit. However, it appears that circumstantial evidence is also applicable in the courts of the United Kingdom.

4.3.5 USA

In the courts of the United States of America, both direct and circumstantial evidence are equally important, and thus a person can be convicted solely on the basis of circumstantial evidence if it is relevant.¹³⁴ In *People vs. Sanchez* and *People vs. Ford*, it was stated that while the term "moral certainty" is not required when the evidence is circumstantial, the jury should be instructed in substance that it must appear that the inference of guilt is the only one that can be drawn fairly and reasonably from the facts and that the evidence precludes beyond a reasonable doubt any reasonable hypothesis of innocence.¹³⁵ The US Supreme Court has also stated in *Holland v United States*¹³⁶ that circumstantial evidence is fundamentally identical to testimonial [direct] testimony.¹³⁷ Thus, the distinction between direct and circumstantial evidence has no practical effect on how evidence is presented or admitted in trials. Besides that, they think that "an inference based on an inference can't be used to support a conviction."¹³⁸ Additionally, circumstantial evidence, as defined by the Federal Rules of Evidence, includes the accused's

¹³¹ Choudhary (n 85)

¹³² Choudhary (n 85)

¹³³ Choudhary (n 85)

¹³⁴ Choudhary (n 85)

¹³⁵ Choudhary (n 85)

¹³⁶ 348 U.S. 121, 75 S.Ct. 127, 99 L.Ed 150 [1954]

¹³⁷ Choudhary (n 85)

¹³⁸ Choudhary (n 85)

resistance to arrest, motive, or opportunity to commit a crime, as well as his or her presence at that time and place, contradictions, or denials.¹³⁹ Additionally, scientific evidence qualifies as circumstantial evidence since it establishes a connection between the circumstances and facts of the case.¹⁴⁰ There have been numerous instances where there has been no direct proof and the jury relies on circumstantial evidence to condemn or acquit the defendant. In the United States, both direct and indirect evidence are equally weighted, and hence judgements can be decided entirely on the basis of circumstantial evidence.

4.4 Conclusion

Most countries accept that circumstantial evidence must be such that a hypothesis of the innocence of the accused cannot be inferred from it at any stage. In India, they set the foundation for cases that depend largely on circumstantial evidence. The supreme courts of Pakistan have reviewed and analyzed circumstantial evidence in a number of cases. Nepalese courts rely on circumstantial evidence as well. Circumstantial Evidence is widely used in almost every Country.

¹³⁹ Choudhary (n 85)

¹⁴⁰Choudhary (n 85)

Chapter 5

Conclusion

5.1 Findings

The goal of this research is to have a better understanding of the concept, application, scope, and value of circumstantial evidence. After doing this research, the author found the following findings:

1. The term circumstantial Evidence is not specifically defined in the Evidence Act, 1872, but rather has developed through pronouncements. Moreover, it is considered indirect evidence as it cannot talk directly about the fact that needs to be shown and it is admitted in the absence of direct evidence. Motive or plan, knowledge, capacity, opportunity, suspicious behaviour, previous and subsequent conduct, possession of incriminating articles, absence of explanation, fingerprints, bodily samples, DNA tests, all these forms circumstantial evidence as they can't directly point out the accused's guilt, rather an inference can be drawn from it.
2. In the delivery of justice, circumstantial evidence is essential. The law of Evidence in Bangladesh permitted circumstantial evidence as a means of proving fact. However, such evidence must meet the basic requirements in order to be accepted as evidence. That means, circumstantial evidence has to show that the accused must have and not may have committed the crime for which he is charged.
3. Circumstantial evidence is often regarded as less important than direct evidence. However, the author of this research found that the law doesn't favor one type of evidence over another. It is determined by the facts of each case how much weight should be given to each piece of evidence, which includes direct and circumstantial evidence.
4. If a trial is solely based on circumstantial evidence that is conclusive in nature, it can serve as the sole basis for conviction. This principle is widely accepted in all other countries as well. However, in Bangladesh, convictions solely based on circumstantial evidence are very rare. On the other hand, in India, they set the foundation for cases that

depend largely on circumstantial evidence. Moreover, the Indian Supreme Court set some conditions for accepting circumstantial evidence as a sole basis for conviction. On the other hand, there are no such conditions or requirements set by the supreme court of Bangladesh in order to accept circumstantial evidence as a sole basis for conviction.

5. In India and Pakistan, they made a principle through judgements that imprisonment would be granted instead of the death penalty if the case is proven by circumstantial evidence. In addition, there must be some "exceptional basis" for imposing the death penalty. Unlike India and Pakistan, there are no specific guidelines regarding the same in Bangladesh.
6. Circumstantial evidence is largely applied in almost every country. Like Bangladesh, most countries accept that circumstantial evidence must be such that a hypothesis of the innocence of the accused cannot be inferred from it at any stage. However, the Court of International Law said that circumstantial evidence alone is insufficient to establish a case in the absence of direct proof, and it rarely relies on circumstantial evidence. On the other hand, in the USA, there is no difference between direct and circumstantial evidence.

5.2 Recommendations and Concluding Remarks

Circumstantial evidence plays a crucial role in the criminal justice system. Circumstantial evidence is widely used in almost every country. Like Bangladesh, most countries accept that circumstantial evidence must be such that a hypothesis of the innocence of the accused cannot be inferred from it at any stage. The supreme court of Bangladesh analyzed circumstantial evidence in different cases and developed some principles through judgments. In Bangladesh, the court said that if circumstantial evidence conclusively proves the accused's guilt, then it can serve as the sole basis of conviction. However, besides this, some more conditions should be set for accepting circumstantial evidence as a sole basis for conviction. If the case is proven by circumstantial evidence, there's no specific advice on how to get a death sentence. As a result, some guidance should be set out on this matter to avoid ambiguity. Moreover, the Court should take extra caution while analyzing circumstantial evidence in order to avoid any possibility of a miscarriage of justice.

The Evidence law in Bangladesh permitted circumstantial evidence as a means of proving fact. The courts rely on circumstantial evidence. It appears that the courts take extra care in examining the circumstances of the story and drawing conclusions in order to prevent a miscarriage of justice. In the absence of direct evidence, courts evaluate circumstantial evidence with care. Evidence law appears to value circumstantial evidence.

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