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EVALUATING THE BEST EVIDENCE RULE: A COMPREHENSIVE ANALYSIS OF ITS APPLICATION IN THE JUDICIAL SYSTEM

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I. ABSTRACT

The obstacles faced by manual document copying throughout the 16th century gave rise to the best evidence rule, a fundamental rule in legal procedures. The Best Evidence Rule is founded on the notion that using the original writing, recording, or photograph is the "best" way to prove the veracity of the evidence's contents. In order to comply with the principle of natural justice, it is important to make sure that litigants give the court the best possible evidence in a way that reduces the burden of proof on the court. The Best Evidence Rule of the Indian Evidence Act is applicable to a variety of types of evidence, including written records, digital data, audiovisual materials, and more. Sections 91 to 100 give documented evidence priority in order to prevent potential errors, omissions, or distortions that may occur when relying simply on oral testimony. Oral testimony is important in many various sorts of legal proceedings, but it is not often regarded as the best proof when the content of a document is in question.

Oral testimony and documentary evidence are the two basic categories of evidence recognized under the Indian Evidence Act. For the purpose of settling legal disputes, it is essential to comprehend how these various sorts of evidence vary in terms of their nature and content. Sections 91 to 100 of the Indian Evidence Act promote the principle that only the most convincing evidence should be presented in court. There are some exceptions to the "best evidence" standard, including [loss or destruction of the original document, proof of content by oral evidence, etc.] However, oral proof cannot take the place of written evidence like written testimonies when those records already exist. Compared to oral evidence, written evidence is regarded as being more conclusive and reliable.

II. KEY WORDS

Best Evidence Rule, natural justice, proceeding, original document.

III. INTRODUCTION

The **best evidence rule** is also known as the "original document rule" and it was derived from the doctrine of *profert in curia* doctrine, which stated that if a party could not

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present the original documents in written form before the relevant court of law, then he or she would have lost the rights that were created by the documents. The best evidence rule, a fundamental principle in legal proceedings, emerged as a response to the challenges posed by manual copying of documents during the 16th century. Court clerks, tasked with reproducing important records by hand, introduced a considerable potential for errors and inaccuracies in the copied items. Recognizing this vulnerability, the best evidence rule was established to ensure the integrity and reliability of evidence presented in court. The rule stipulates that original documents should be presented whenever possible, as they offer the most accurate representation of the information in question. By prioritizing the use of primary sources, the best evidence rule aims to minimize the risk of distortions, mistakes, or deliberate alterations that could undermine the legal process's fairness and credibility.

The foundation of Best evidence rule was laid down in the case of *Hopkins vs Ford Motar Co.*² Justice Hardwicke's said that "*no evidence will be admissible unless it is the best evidence that nature will allow*". This rule serves as a safeguard to ensure the accuracy and reliability of evidence presented in court. It requires that the original document or primary source be presented whenever possible, rather than relying on secondary or hearsay evidence. By prioritizing the use of the best available evidence, such as the original document itself, the rule aims to prevent the introduction of potentially distorted, incomplete, or unreliable information. This helps maintain the fairness, transparency, and integrity of the legal process by minimizing the risk of misunderstandings, misinterpretations, or deliberate manipulations of evidence. The Best Evidence Rule is based on the idea that the "best" approach to demonstrate the truth of the evidence's contents is through the original writing, recording, or photograph. This considers to ensure that the litigants Provides best ways of evidence to the court that make the court responsibility less to ensure and provide equality and work in accordance with the principle of natural justice.

IV. GAMUT OF BEST EVIDENCE RULE

The Indian Evidence Act's Best Evidence Rule is applicable to a wide range of evidence, including textual documents, electronic data, audiovisual materials, and more. The significance of preserving the integrity and truth of the evidence produced in court is acknowledged by this broad breadth. The Best Evidence Rule is expanded to ensure that the original document is produced when oral testimony refers to a document during testimony. This clause forbids reliance on perhaps inaccurate recollections or readings

² Hopkins v. Ford Motor Co., No. 1:07-CV-00068, F. Supp. 2d (W.D. Ky. Nov. 14, 2011).

of the contents of the document and emphasizes the importance of the main evidence itself.

The regulation protects against potential fraud, deception, and inaccuracy that may occur during court procedures by embracing various sorts of evidence. It encourages the idea that if possible, the original document should be shown in court since it is thought to be the most trustworthy and accurate depiction of its content. In addition, the rule's inclusion of audiovisual and electronic data matches contemporary information storage and communication practices. It ensures that the same requirements of reliability and authenticity apply to various types of evidence as well and acknowledges the growing use of digital evidence in today's legal situations. Overall, the Best Evidence Rule's wide use highlights how essential it is to preventing the admission of potentially suspect or fabricated evidence.

V. THE BEST EVIDENCE RULE IN THE INDIAN EVIDENCE ACT, 1872

Although the Indian Evidence Act may not use the phrase "best evidence rule" specifically, its meaning and applicability can be inferred from a number of its judgments and clauses. Despite not directly stating the rule, Section 64 of the Act establishes the best evidence standard for documentary evidence. The court acknowledged that section 64 of the Indian Evidence Act creates the best evidence rule in relation to documentary evidence in the case of *Malay Kumar Ganguly v. Sukumar Mukherjee*.³ The clause requires that documents be supported by direct evidence, excepting any special circumstances. In accordance with Section 64, "Documents must be proved by primary evidence, except in the cases hereinafter mentioned." This clause implies that the Act prioritizes the use of primary evidence—typically, the original document itself—and its admission. Additionally, this rule is subject to exceptions under the section, which specifies that secondary evidence may be permitted under certain conditions.

Evidence is a key factor in determining how a case will turn out in court. Oral testimony and documentary evidence are the two basic categories of evidence recognized under the Indian Evidence Act. Understanding how these different types of evidence differ in nature and content is crucial for the resolution of legal disputes. Oral evidence includes witness testimony provided through vocal declarations made in court. Direct evidence, substantive evidence, and corroborative evidence are the three categories into which it can be divided. Direct evidence is a term used to describe claims made by witnesses who have actual knowledge of the in-question facts. Statements that directly support or

³ Malay Kumar Ganguly v. Sukumar Mukherjee, 2009 SCC OnLine Cal 1472.

refute a claimed fact are considered substantive evidence. The credibility of additional evidence is bolstered or supported by corroboration, which strengthens the entire case. Documentary evidence, on the other hand, refers to written, printed, or electronic materials that are offered in court. Documentary evidence, as contrast to oral testimony, is restricted to supporting and significant evidence. Documents that directly substantiate a fact in dispute, such as contracts, deeds, wills, or official records, are referred to as substantive evidence. Documentary evidence that is corroborated adds to or strengthens the other evidence in the case. The Act's sections 59 and 60 address oral testimony. If a witness has direct and firsthand knowledge of the fact he is deposing, his oral testimony is usually admissible. As stated in Section 3 of the Act, "all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry, such statements are called oral evidence," it is appropriate to make this reference. While the Act divides papers into two categories when it comes to documentary evidence: one category is a "public document" according to Section 74 of the Act, and the other category is certified copies according to Section 77 of the Act.

It is important to carefully analyze both oral and written evidence in court cases, assessing their veracity and probative value. The court examines witness testimony, assesses the credibility of the witnesses, and gauges the coherence and consistency of their testimony. It also carefully examines the legitimacy, applicability, and admissibility of documentary evidence, confirming its provenance, veracity, and adherence to legal standards. The appreciation of evidence requires the court to critically analyze the facts, assess the weight and credibility of each piece of evidence, and make reasoned judgments based on the overall evidentiary record. It is essential for the court to consider the inherent strengths and limitations of both oral and documentary evidence, as well as any corroborative elements that support or contradict the narratives presented. By evaluating the oral and documentary evidence in a suit, the court seeks to establish the truth and make a fair and just determination of the case. The process of appreciating evidence involves an objective assessment of the credibility, consistency, and probative value of each type of evidence, ensuring that the facts are established with accuracy and reliability.

VI. THE POINT IS RAISED AS TO HOW DOCUMENTARY EVIDENCE EXCLUDES ORAL EVIDENCE?

The Indian Evidence Act's Sections 91 to 100 uphold the rule that only the strongest evidence should be offered in court. These parts recognize that the document itself is the most accurate and reliable proof of a document's content, regardless of how reliable a person's recollection may be. As a result, the guiding idea behind these parts emphasizes the value of documentary evidence while disallowing oral testimony in

such circumstances. The best evidence standard emphasizes the need for the highest caliber evidence rather than calling for the submission of a vast amount of evidence. The best proof in this situation is the actual original document or a properly verified copy of it. The rationale behind this is that the original document is deemed to possess the most reliable and authentic representation of its contents. There is no justification for the Court to prefer one over the other when it comes to documentary or oral evidence, according to *Javarasetty v. Ningamma*,⁴ which held that oral evidence is not dismissed where the writing in question is not proof of the matter committed to writing. The general rule that prohibits oral testimony when there is documentary testimony is outlined in Sections 91 and 92.

Sections 91 to 100 aim to avoid possible errors, omissions, or distortions that may happen when relying only on oral testimony by giving documentary evidence priority. While crucial in many different types of legal processes, oral testimony is not thought to be the best evidence when a document's content is in issue. The court will only receive the most up-to-date and trustworthy information thanks to this exclusion. The use of the best evidence standard in these parts protects against potential errors or misstatements that can result from verbal reports or interpretations of a document's content. It encourages the preservation of the original source materials because it understands their superior worth as evidence in court. By excluding oral evidence, sections 91 to 100 aim to uphold the principle of authenticity, accuracy, and reliability in the Indian legal system. The intent is to ensure that the most trustworthy evidence, in the form of the original document or a certified copy, is provided to the court, thus enhancing the integrity and fairness of the judicial process. By stating that a document or deed that cannot be classified as a contract, grant, or disposition of property will not be impacted by the best evidence rule as established under the provision, the Supreme Court in *Taburi Sahai v. Jhunjhunwala*⁵ clarified the scope of Section 91. In the current instance, the question was whether or not a deed of child adoption will be regarded as a contract. The Supreme Court of India ruled that the same cannot be considered a deed and is therefore not subject to Section 91 and its guiding principle. In the 2003 decision of *Roop Kumar v. Mohan Thedani*,⁶ the Supreme Court of India noted that Section 91 of the Indian Evidence Act, 1872 forbade proof of any writing's contents in any way other than through the writing itself, embodying the best evidence principle and establishing a theory of substantive law. The Court continued, noting that even while Sections 91 and 92 of the Act differ in important ways, they work together to form the best evidence rule.

⁴ *Javarasetty v. Ningamma*, 1991 SCC Online Kar 210.

⁵ *Taburi Sahai v. Jhunjhunwala*, AIR 1996 SC 106.

⁶ *Roop Kumar v. Mohan Thedani*, (2003) 6 SCC 595.

There are two exceptions to these provisions: (1) When a public officer is required by law to be appointed in writing; and any officer has acted as such, the writing need not be proved; (2) Will admitted to probate in India may be proved by the probate.

The aforementioned analysis reveals that when a document is presented to establish the terms of a contract, property deposition, or any matter that must be in writing according to the law, oral evidence is not necessary to contradict it. Once a document has been submitted as evidence to prove its terms under Section 91 of the Indian Evidence Act, the subsequent provisions of Section 92 come into play. These provisions specifically exclude the introduction of oral agreements or statements that seek to contradict, alter, supplement, or subtract from the terms mentioned in the document.

VII. EXCEPTIONS TO THE BEST EVIDENCE RULE

There are certain exceptions to the Best Evidence Rule, allowing for the admission of secondary evidence when the original document cannot be produced. These exceptions include:

Exceptions to the Best Evidence Rule allow for the admission of secondary evidence when the original document cannot be produced. These exceptions are designed to accommodate practical limitations and ensure that justice is not impeded by the unavailability of primary evidence. Let's explore these exceptions in detail.

1] Loss or Destruction of Original Document:

In situations where the original document is lost, destroyed, or cannot be located despite reasonable efforts, secondary evidence becomes admissible. This exception recognizes that circumstances beyond the control of the parties may lead to the unavailability of the primary evidence. However, it is important to establish that genuine efforts were made to locate the original document before resorting to secondary evidence.

2] Proof of Content by Oral Evidence:

If a document is of such a nature that it cannot be conveniently examined, it may be proved by oral evidence. This exception acknowledges that certain documents, such as extremely large or complex records, may be impractical to produce physically. In such cases, oral evidence is permitted to establish the content of the document, ensuring that the court has access to relevant information despite the document's inherent limitations.

3] Public Documents:

Certified copies of public documents, such as government records or official registers, are admissible as secondary evidence. This exception recognizes the practical difficulties in producing original public documents, which are often kept in official

custody. Certified copies serve as reliable substitutes for the originals and are considered trustworthy evidence of the contents of public records.

4] Collateral Matters:

When the contents of a document are not directly in question and are only relevant to a collateral matter, secondary evidence may be admitted. This exception allows for the introduction of secondary evidence when the primary focus of the case does not revolve around the document itself. For example, if the existence or execution of a contract is not in dispute but certain incidental terms need to be established, secondary evidence can be used to prove those collateral matters.

These exceptions to the Best Evidence Rule ensure that the unavailability of primary evidence does not unduly hinder the course of justice. By allowing the introduction of secondary evidence under specific circumstances, the law strikes a balance between the need for authenticity and practicality in legal proceedings. It is important to note that even when secondary evidence is admitted, its credibility and weight can be challenged by opposing parties. The court will consider factors such as the reliability, source, and corroborative value of the secondary evidence in determining its probative value.

VIII. CONCLUSION

The Best Evidence Rule in the Indian Evidence Act plays a vital role in ensuring the authenticity, accuracy, and reliability of evidence presented in courts. By prioritizing the production of primary evidence, this rule safeguards against manipulation and promotes the preservation of the truth. While exceptions exist to accommodate practical limitations, documentary evidence carries greater weight than oral evidence, as oral testimony needs supporting evidence to be deemed credible. The acceptance of oral evidence relies on the quality of the evidence presented in court, rather than the process used to arrive at a decision.

Therefore, oral proof cannot replace written documents in cases where written records exist as evidence, such as written testimonies. Written evidence is considered more conclusive and dependable compared to oral evidence. In view of the aforesaid discussion, it wouldn't be wrong to say that the linchpin the rule of best evidence is the stalwart of the due process model of criminal jurisprudence.

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