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Judicial Standards for Assessing Hostile Witness Testimony in Indian Criminal Jurisprudence

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ABSTRACT

Witness evidence is one of the most crucial types of evidence in criminal proceedings. Witnesses are crucial for the court because their statements help judges understand what actually occurred and determine the guilt of the accused. A serious problem arises, however, when a witness changes what they stated before the trial and refuses to assist the prosecution. Such witnesses are commonly described as hostile witnesses. The phenomenon of hostile witnesses has increasingly affected the administration of criminal justice in India. The problem often arises because of threats, bribes, social pressure, or delays in the trial proceedings. Indian courts have therefore developed judicial criteria to evaluate the evidentiary worth of hostile-witness testimony. This paper examines how Indian evidence law handles hostile witnesses and how courts apply judicial norms to determine the treatment of such witnesses. It also examines recent legal changes, particularly following the enactment of the Bharatiya Sakshya Adhiniyam, 2023, and notable Supreme Court rulings. The paper argues that, while hostility may affect credibility, courts must carefully evaluate the testimony rather than rejecting it outright.

Keywords: *hostile witness, criminal justice system, Bharatiya Sakshya Adhiniyam, witness credibility.*

I. INTRODUCTION

In order to prove the facts of a case and ascertain the criminal responsibility of the accused, the criminal justice system relies heavily on the testimony of witnesses. Witnesses are very important in most criminal trials, providing information about what happened before, during, or after the crime, and their statements help the court understand how the crime took place. Given that witnesses are often the only individuals with direct knowledge of the incident, their testimony is vital in helping the court reach just and accurate decisions.¹

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¹ Ratanlal & Dhirajlal, THE LAW OF EVIDENCE 45 (LexisNexis, 26th ed. 2017).

Witness testimony is often used by judges to support and validate other kinds of evidence, including physical objects produced during the trial, forensic results, medical reports, and documentary records.² Consistency between witness testimony and the other evidence on record strengthens the prosecution's case and increases the likelihood of demonstrating guilt beyond a reasonable doubt. Witnesses are therefore regularly regarded as one of the most important sources of evidence in criminal proceedings.³

The concept of the hostile witness has always been a frequent and problematic feature of the justice-delivery system in India, even though witnesses are crucial to that system. A witness may be described as a hostile witness when he declines to assist the party who has called him, refuses to support that party, or changes his previous statement or reverses important facts of the case. The rise in the number of hostile witnesses has become a concern for judges. The courts have recognised that, apart from inappropriate evidence being produced or defective investigation, the rate of convictions in the country is also affected by witnesses turning hostile.⁴

The foundations of India's criminal justice system are the discovery of the truth and the conduct of the justice-delivery process in a fair, impartial, and transparent manner. Among the various participants in that system, including judges, prosecutors, lawyers, investigative agencies, and victims, witnesses play a very significant role, since the principal means of proving facts and establishing guilt or innocence is their testimony. In practice, particularly in cases relating to serious offences, sexual offences, terrorism, organised crime, and large-scale public disorder, the case of the party that has filed it is closely linked to the depositions of these witnesses. For fair and proper justice, the honesty and firmness of witnesses in giving truthful testimony is essential.⁵

Witness testimony, while vital, does not always remain the same during the trial. There are times when witnesses change what they stated during the investigation or provide a different version of events when questioned in court. A witness who changes an earlier statement or refuses to help the party that called them is often described as a hostile witness.⁶ The existence of hostile witnesses has become more common in Indian criminal prosecutions, raising substantial concerns about the effectiveness and consistency of the justice-delivery system.⁷ Hostile

² Siddhi Vhora, *Hostile Witness: Foe or Victim*, 4(1) GALGOTIAS J. LEGAL STUD. (2016).

³ Avtar Singh, *PRINCIPLES OF THE LAW OF EVIDENCE* 112 (Central Law Publications, 2018).

⁴ Shabnam Mahlawat, *Hostile Witnesses and Evidentiary Value of Their Testimony under the Law of Evidence*, ILI L. REV. (Winter 2017).

⁵ Mahender Chawla v. Union of India, (2019) 14 SCC 615.

⁶ Sat Paul v. Delhi Administration, AIR 1976 SC 294.

⁷ *Id.*

witnesses are a serious problem for courts and investigators. If witnesses alter their statements, it can disrupt the prosecution's case and may result in the acquittal of the accused for want of sufficient, trustworthy evidence. Witnesses have turned hostile during trials in several well-known criminal cases in India.⁸

Witness hostility may arise for several reasons. The most common is that the accused or persons close to them threaten or frighten the witness. Witnesses may alter their testimony in court because they are worried about their own safety or that of their family members. In some cases, witnesses may feel pressure from their community or be offered money to change their statements. Witnesses may also experience mental or emotional pressure during the trial, which can make it more difficult for them to be honest or less willing to do so.⁹

The length of time it takes to resolve criminal cases is a significant contributing factor to the problem of hostile witnesses. Because of court workloads and procedural delays, criminal trials in India frequently take several years to conclude. During this extended period, witnesses may lose interest in taking part in the legal process or forget crucial details about the incident. Prolonged proceedings may also deter witnesses from assisting the authorities, raising the possibility that they will become hostile during the trial.¹⁰

When hostile witnesses are involved, it is difficult for courts to perform their function. If the testimony of such witnesses is completely ignored, it could mean the loss of evidence that might help establish the truth. But if their evidence is believed without close scrutiny, the trial may be unfair and lead to wrong conclusions. To deal with this problem, Indian courts have developed specific rules and standards for evaluating the testimony of hostile witnesses.¹¹ These criteria allow judges to examine all the evidence carefully and rely only on the parts that appear reliable and consistent with the other evidence.¹²

Over time, the judiciary has made it clear that the testimony of a hostile witness should not be disregarded merely because the witness has changed an earlier statement. Rather, courts must carefully review the evidence and decide whether any portion of the testimony remains reliable. This balanced approach helps prevent justice from being undermined simply because a witness changed their account during the trial.¹³

⁸ State of Uttar Pradesh v. Ramesh Prasad Misra, (1996) 10 SCC 360.

⁹ Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158.

¹⁰ LAW COMMISSION OF INDIA, *198th Report on Witness Identity Protection and Witness Protection Programmes* (2006).

¹¹ The Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023 (India).

¹² Koli Lakhmanbhai Chanabhai v. State of Gujarat, (1999) 8 SCC 624.

¹³ Ramesh Harijan v. State of Uttar Pradesh, (2012) 5 SCC 777.

The evolution of evidence law in India has been shaped by both judicial interpretation and legislative reform. The Bharatiya Sakshya Adhiniyam, 2023 (BSA) has significantly altered the operation of evidence law.¹⁴ This law aims to modernise the rules governing the use and evaluation of evidence in criminal trials, bringing the law of evidence up to date with contemporary conditions and new technologies while retaining many of the core principles of the earlier law.

The Bharatiya Sakshya Adhiniyam continues to recognise the importance of cross-examination, the evaluation of credibility, and the questioning of witnesses in court. It empowers the court to allow cross-examination of a witness who appears hostile and provides for the identification of inconsistencies in witness testimony. In doing so, the law supports the principle that the credibility of witnesses must be carefully examined to ensure that justice is done.

To assess how well India's criminal justice system functions, it is necessary to understand how the courts decide whether a hostile witness's testimony is credible. A close examination of these criteria shows how courts seek to balance the protection of the rights of witnesses and the accused with the search for truth. It also underscores the importance of institutional reform to improve witness protection and to make witness testimony more reliable in criminal trials.

II. MEANING AND IDEA OF HOSTILE WITNESS

Statutory law does not expressly define the term "hostile witness." It usually denotes a witness who is hostile toward the party who called them or who deliberately gives testimony that contradicts an earlier statement.¹⁵

When a witness retracts or contradicts statements made during an investigation, refuses to support the prosecution's case, or intentionally conceals important facts, they may be treated as hostile. The court usually decides whether a witness is hostile on the basis of how they behave and respond during questioning.¹⁶

In criminal trials, hostile witnesses are especially problematic because they can damage the prosecution's case. It can be difficult to establish what happened, or to prove the guilt of the accused beyond a reasonable doubt, when witnesses change their accounts during the trial.¹⁷

¹⁴ The Bharatiya Sakshya Adhiniyam, 2023, *supra* note 11.

¹⁵ Ratanlal & Dhirajlal, *supra* note 1, at 145.

¹⁶ The Indian Evidence Act, 1872, § 154, No. 1, Acts of Parliament, 1872 (India); The Bharatiya Sakshya Adhiniyam, 2023, *supra* note 11.

¹⁷ Avtar Singh, *supra* note 3, at 205.

But the fact that a witness turns hostile does not mean that their testimony is automatically unreliable. Courts have repeatedly held that the testimony of a hostile witness must be carefully examined to determine whether any part of it remains credible and consistent with the other evidence in the case.¹⁸

III. LEGAL FRAMEWORK GOVERNING HOSTILE WITNESSES

A. Provisions under the Indian Evidence Act, 1872

Section 154 of the Indian Evidence Act, 1872 (IEA) was the principal provision governing hostile witnesses. It gave the court the power to permit the party who called a witness to cross-examine that witness where the witness appeared hostile or adverse.¹⁹ Section 154 allowed the prosecution to question its own witness and to demonstrate how statements made during the investigation and in court did not match. This mechanism made it difficult for witnesses to escape scrutiny simply by altering their account during the trial. Sections 145 and 155 of the Act were also important: they provided that a witness's credibility might be questioned where the witness made inconsistent statements, or where the witness was biased or corrupt or had previously been convicted of an offence.²⁰

B. Provisions under the Bharatiya Sakshya Adhiniyam, 2023

The Bharatiya Sakshya Adhiniyam, 2023 (BSA), which superseded the Indian Evidence Act, 1872, retained most of its core principles. The new law contains a number of provisions for evaluating the credibility of witnesses.²¹ Section 157 of the BSA corresponds to the former rule permitting the cross-examination of one's own witness where that witness appears hostile, allowing the party who called the witness to question them in a manner comparable to cross-examination. The Act also retains the rules on credibility and previous statements, which make it possible to record any differences between earlier statements and court testimony. The retention of these provisions reflects the legislature's recognition of the importance of witness reliability in criminal prosecutions and of the need for courts to be able to test hostile testimony effectively.

IV. JUDICIAL RESPONSES REGARDING HOSTILE WITNESS TESTIMONY

Indian courts have developed a sophisticated and balanced approach that recognises both the potential value of the evidence and the difficulty of assessing the testimony of hostile witnesses.

¹⁸ Sat Paul, *supra* note 6; Koli Lakhmanbhai Chanabhai, *supra* note 12.

¹⁹ The Indian Evidence Act, 1872, § 154, No. 1, Acts of Parliament, 1872 (India).

²⁰ The Indian Evidence Act, 1872, §§ 145, 155, No. 1, Acts of Parliament, 1872 (India).

²¹ The Bharatiya Sakshya Adhiniyam, 2023, *supra* note 11.

One important principle that has emerged from judicial interpretation is that the testimony of a hostile witness should not be entirely ignored merely because the witness has departed from earlier statements. Instead, courts have the power to weigh all of the testimony carefully and to accept only those portions that are trustworthy, credible, and consistent with the overall facts and circumstances of the case. This principle is crucial to ensuring that the administration of justice is not frustrated simply because a witness turns hostile, which frequently occurs because of external influence, intimidation, inducement, or fear.²²

In addition to selective acceptance, courts emphasise the importance of corroboration when dealing with hostile-witness evidence. Before relying on such testimony, judges usually look for supporting evidence as a matter of caution. Corroboration may be drawn from a variety of sources, including medical reports, documentary records, scientific and forensic evidence, and the testimony of other reliable witnesses. This requirement guards against the danger of wrongful conviction or loss of fairness by ensuring that reliance on a hostile witness does not compromise the impartiality, objectivity, and integrity of the trial.²³

The way a witness behaves during a trial is another important consideration for judges. Judges frequently observe how witnesses testify, noting features such as hesitancy, inconsistency, evasiveness, body language, and general demeanour. Although somewhat subjective, these observations help the court assess the witness's veracity and reliability. A witness who is only partially consistent but seems credible in some respects may still be relied upon to a degree, whereas a witness who appears to be deliberately concealing the truth or giving false information may be treated with caution.²⁴

In addition, courts often consider whether the testimony of a hostile witness is consistent with the surrounding circumstantial evidence. Certain features of the testimony may still be supported by independent circumstantial evidence, such as the sequence of events, the recovery of physical objects, or established facts of the case, even where the witness later retracts or disputes earlier remarks. By connecting testimony with such evidence, courts attempt to reconstruct the truth, ensuring that contradictions do not stand in the way of justice. Rather than dismissing evidence on technical grounds, this approach reflects the principle that the court's ultimate objective is to discover the truth.²⁵

²² Sat Paul, *supra* note 6.

²³ State of Uttar Pradesh v. Ramesh Prasad Misra, *supra* note 8.

²⁴ Ratanlal & Dhirajlal, *supra* note 1, at 156.

²⁵ Vepa P. Sarathi, *LAW OF EVIDENCE* 148 (Eastern Book Company, 6th ed. 2008).

Numerous significant Supreme Court decisions have established and confirmed the judicial approach to hostile witnesses. The Court stated categorically in *Sat Paul v. Delhi Administration* that the testimony of a hostile witness is not wholly unreliable and may be accepted if it is found to be reliable and credible; the principle of limited acceptance of such testimony was founded on this ruling. Similarly, in *State of Uttar Pradesh v. Ramesh Prasad Misra*, the Court held that courts must carefully assess which aspects of a hostile witness's testimony can safely be relied upon and that the testimony cannot be dismissed in its entirety merely on the ground of hostility.²⁶

In *Koli Lakhmanbhai Chanabhai v. State of Gujarat*, the Court emphasised that, rather than discarding all of the evidence, it is the judiciary's duty to distinguish truth from falsehood in the testimony of a hostile witness. Together, these rulings offer a consistent judicial position that, while hostility influences the weight or evidentiary worth of the evidence, it does not render it inadmissible. The courts accordingly adopt a practical and justice-focused approach, preventing the destruction of trustworthy evidence while guarding against the dangers posed by unreliable or tainted testimony.²⁷

In *Goverdhan v. State of Chhattisgarh*, the Supreme Court reaffirmed the long-standing rule that the testimony of a hostile witness cannot be completely disregarded on account of hostility. According to the Court, such evidence can still be relied upon so long as it is found to be credible, particularly where it is supported by other trustworthy material on record. This ruling upheld the principle that hostile-witness testimony may be accepted to a limited extent.²⁸

Similarly, in *Anees v. State (Govt. of NCT of Delhi)*, the Court stressed the role of the prosecution in dealing with hostile witnesses. It emphasised that prosecutors must conduct competent cross-examination to expose discrepancies between witnesses' earlier statements and their evidence at trial. By doing so, the prosecution can help the court identify the truthful portions of the evidence and uncover any deliberate deviations.²⁹

The Court held in *Dadu @ Ankush v. State of Madhya Pradesh* that the testimony of a hostile witness should not be rejected outright but rather evaluated carefully and cautiously. The Court stressed that even a hostile witness may provide useful information, and that it is the judiciary's responsibility to evaluate such testimony in light of the relevant facts and evidence.³⁰

²⁶ *State of Uttar Pradesh v. Ramesh Prasad Misra*, *supra* note 8.

²⁷ *Koli Lakhmanbhai Chanabhai*, *supra* note 12.

²⁸ *Goverdhan v. State of Chhattisgarh*, 2025 INSC 47.

²⁹ *Anees v. State (Govt. of NCT of Delhi)*, 2024 INSC 368.

³⁰ *Dadu @ Ankush v. State of Madhya Pradesh*, 2025 INSC 1395.

Further, in *K.P. Tamilmaran v. State*, the Court emphasised the importance of evaluating the evidence holistically. It concluded that, in deciding whether the evidence of hostile witnesses, in whole or in part, assists the prosecution's case, courts must consider the entire body of evidence on record.³¹

In *Kiran v. State of Karnataka*, the Supreme Court explained that a hostile witness does not entirely lose their evidentiary value, and that courts may still rely on those parts of the testimony that are true and substantiated by other evidence. While recognising that witnesses often turn hostile because of intimidation or fear, the ruling highlights the need to maintain the impartiality of criminal proceedings.³²

In *Patchaiparumal @ Patchikutti v. State*, the Supreme Court held that the testimony of a hostile witness should not be entirely ignored, and that courts may rely on the trustworthy and corroborated parts of such evidence. The Court recognised that witnesses often become hostile because of intimidation, coercion, or fear, and that a comprehensive approach safeguards the integrity and fairness of criminal trials.³³

Taken as a whole, these decisions reflect a consistent judicial approach: ensuring that hostile-witness testimony is assessed with caution, fairness, and an emphasis on discovering the truth, rather than being instantly rejected or naively accepted. By allowing partial acceptance, requiring corroboration, examining witness behaviour, and matching testimony with circumstantial evidence, Indian courts seek to preserve the integrity of the legal process, ensuring that fairness is not compromised by blind faith in, or outright rejection of, the facts.

V. WITNESS HOSTILITY AND FAIR TRIAL CONCERNS

Witness intimidation. One of the primary reasons witnesses turn hostile is intimidation. Witnesses are often threatened, coerced, or enticed by the accused, their supporters, or influential persons. Witnesses frequently fear for their own safety and that of their loved ones, especially where organised crime or powerful figures are involved. This fear may compel them to retract their earlier statements or deliberately give false testimony in court. The absence of prompt and effective safeguards aggravates the problem by leaving witnesses vulnerable to outside pressure.³⁴

³¹ *K.P. Tamilmaran v. State* by Deputy Superintendent of Police, 2025 INSC 576.

³² *Kiran v. State of Karnataka* (Supreme Court of India, decided Dec. 18, 2025).

³³ *Patchaiparumal @ Patchikutti v. State*, Criminal Appeal No. 2030 of 2022 (Supreme Court of India, decided Dec. 19, 2025).

³⁴ *Zahira Habibullah Sheikh v. State of Gujarat*, *supra* note 9.

Delay in criminal trials. The length of criminal proceedings is another important factor contributing to the problem of hostile witnesses in India. Cases often take years, or even decades, to resolve. Such delays may result in a weakened emotional connection to the events, memory loss, and the loss of crucial information. Witnesses may eventually lose interest in the case or be influenced by changing circumstances. Frequent court appearances can also be expensive, time-consuming, and stressful, discouraging witnesses from consistently supporting the prosecution's case.³⁵

Lack of witness protection. Although courts have recognised the need for witness protection, a robust and uniform framework is still lacking across the country. In the absence of suitable safeguards such as anonymity, relocation, or security measures, witnesses often feel exposed and uncomfortable. This lack of institutional support discourages people from testifying or from making consistent statements. Even where protective procedures exist, problems remain with awareness, accessibility, and implementation.³⁶

Investigative weaknesses. Another major obstacle is weakness in the investigative process. A lack of professionalism, a failure to collect supporting evidence, and the improper recording of statements in accordance with applicable legal standards can all lead to inconsistent witness testimony. Statements may be challenged during cross-examination if they are gathered in questionable circumstances or are not accurately recorded. A poor investigation not only weakens the prosecution's case but also allows witnesses to turn hostile by exploiting discrepancies and procedural errors.³⁷ Taken together, these challenges highlight systemic issues in the criminal justice system that need to be addressed through stronger institutional frameworks, speedier trials, and better witness protection in order to preserve the integrity of court proceedings.³⁸

VI. NEED FOR LEGAL AND INSTITUTIONAL REFORMS

The persistent problem of hostile witnesses highlights the urgent need for significant institutional and legislative reform of the criminal justice system. Addressing the issue requires a comprehensive approach that strengthens both procedural safeguards and enforcement mechanisms.

³⁵ LAW COMMISSION OF INDIA, *245th Report on Arrears and Backlog: Creating Additional Judicial (wo)manpower* (2014).

³⁶ Mahender Chawla v. Union of India, *supra* note 5.

³⁷ Ratanlal & Dhirajlal, *supra* note 1, at 178.

³⁸ Avtar Singh, *supra* note 3, at 210.

First and foremost, the development of a robust witness-protection scheme is crucial. Providing witnesses with psychological security, anonymity, and physical safety can significantly reduce the likelihood that they will turn hostile. Protective measures that can increase witness confidence and encourage honest testimony without fear include relocation, identity concealment, and police security.³⁹

Second, integrating modern technology into the criminal justice system can meaningfully help preserve the reliability of witness evidence. The use of audio-visual recording of statements, particularly at the investigation stage, has two advantages: it preserves accuracy and reduces the likelihood of a later retraction or dispute. Such technical measures also increase the accountability and transparency of the recording process.⁴⁰

Third, the prompt resolution of criminal cases is vital to prevent delays, which can aggravate witness hostility. Prolonged trials weaken witnesses' memory and expose them to external influence. Prompt justice, and more consistent witness evidence, can be achieved through stricter timelines, fast-track courts, and efficient case-management systems.⁴¹

Finally, harsher legal consequences for witness intimidation and tampering are necessary to deter interference with the administration of justice. Strictly enforcing the criminal law against those who attempt to coerce or intimidate witnesses can help ensure the integrity of the evidence and the fairness of court proceedings.⁴²

VII. CONCLUSION

The problem of hostile witnesses is one of the chief challenges facing the criminal justice system, even though witness testimony remains one of the most important forms of evidence in criminal cases. Indian courts have treated hostile witnesses fairly and practically: rather than entirely dismissing the evidence, courts carefully examine it and rely on those portions that remain reliable and consistent with the other material on record. The enactment of the Bharatiya Sakshya Adhiniyam, 2023 (BSA) has reaffirmed the importance of witness examination and credibility assessment in criminal proceedings. However, legislative measures alone cannot resolve the problem of hostile witnesses. Strengthening witness-protection protocols, improving investigative methods, and ensuring the timely resolution of criminal cases are all necessary to

³⁹ Mahender Chawla v. Union of India, *supra* note 5.

⁴⁰ The Code of Criminal Procedure, 1973, § 161, No. 2, Acts of Parliament, 1974 (India); Law Commission of India, *supra* note 10.

⁴¹ Law Commission of India, *supra* note 35.

⁴² The Indian Penal Code, 1860, §§ 191-193, No. 45, Acts of Parliament, 1860 (India).

preserve the integrity of witness evidence. Maintaining witness credibility is crucial to ensuring that justice is effectively done and to sustaining public confidence in the criminal justice system.
