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DOCTRINE OF RES GESTAE



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EVOLUTION

The rule of res gestae has its origin in the case of Thompsan V. Trevanion in 1963. Subsequently in 1736, in case of Ambrose V. Clendon held that declarations are admissible if concomitant with facts. This concept has its application in the English system of administration of criminal justice.

MEANING

The res gestae is derived from the Latin term which means things done. The statement or declaration made by the person immediately after the event without giving opportunity for application of mind and making the spontaneous reply without interval otherwise amounts to fabrication. The statement has to be made by the person present in the event which the court can take into consideration so that no evidence can be considered as irrelevant even though there are some technical difficulties which differ from case to case while disposing of the case in the criminal justice system. Subsequently, there should be no interval between the event happening and the statement made.

Sec.6 of the Indian Evidence Act, deals with res gestae. The facts can be proved as part of the res gestae which connects to the facts though not in issue. Though hearsay evidence is not admissible in the court of law, the res gestae is admissible in the court. This doctrine is an exception to the hearsay rule.

ESSENTIALS

1. The statement must be connected with the fact.
2. It should be made spontaneously and immediately.
3. There must be no opportunity for the application of mind while the statement had been made, as it should be spontaneous.



TEST TO APPLY RES GESTAE

1. Whether the statement made was connected with the fact of the case?
2. Whether the statement was made spontaneously on happening of the event?
3. Whether there is any possibility of error by the person making the statement on such an event?
4. Whether there is continuity of purpose and action running through the fact in issue and the fact of which evidence is sought to be given?

CONDITIONS

1. The statement must be the fact and not opinion.
2. The statement must be made by the participant or witness of such an event.
3. The statement of the bystander is admissible if he is present in the scene.
4. The statement must express the incident in the same manner.

CASE LAWS

Case 1

Gentela Vijayavardhan Rao And Another v. State Of A.P., 1996 AIR SC 2791.

Held - Here, there was some appreciable interval between the acts of incendiarism indulged in by the miscreants and the Judicial Magistrate recording statements of the victims. That interval, therefore, blocks the statements from acquiring legitimacy under Section 6 of the Evidence Act. The High Court was, therefore, in error in treating Exts. P-71 and P-75 as forming part of res gestae evidence.

Case 2

Sukhar v. State Of U.P., 1999 AIR SC 3968.

Held - The statements sought to be admitted, therefore, as forming part of res gestae, must have been made contemporaneously with the acts or immediately thereafter.



The aforesaid rule as it is stated in Wigmore's Evidence Act reads thus: "Under the present exception to hearsay and utterance is by hypothesis, offered as an assertion to evidence the fact asserted (for example that a car brake was set or not set), and the only condition is that it shall have been made spontaneously, i.e as the natural effusion of a state of excitement. Now this state of excitement may well continue to exist after the exciting fact has ended. The declaration, therefore, may be admissible even though subsequent to the occurrence, provided it is near enough in time to allow the assumption that the exciting influence continued."

Case 3

Javed Alam v. State Of Chhattisgarh And Another, 2009 AIR SC 3918.

Held - The question of res gestae has no application as the name given for the first time is proved in the court. Res gestae was not in the police statement. So far as Article D-7 is concerned paint is similar to that of jeep which is scratched. It is also reiterated that the evidence on record does not make out a case under Section 34 IPC.

Case 4

Bhairon Singh v. State Of Madhya Pradesh, 2010 SCC CRI 1 955.

Held - The rule embodied in Section 6 is usually known as the rule of res gestae. What it means is that a fact which, though not in issue, is so connected with the fact in issue "as to form part of the same transaction" becomes relevant by itself. To form a particular statement as part of the same transaction utterances must be simultaneous with the incident or substantially contemporaneous that is made either during or immediately before or after its occurrence. Section 6 of the Evidence Act, in the facts and circumstances of the case, insofar as admissibility of the statements of PW 4 and PW 5 about what the deceased had told them against the accused of the treatment meted out to her is concerned, is not at all attracted.

Case 5

Krishan Kumar Malik v. State Of Haryana, 2011 AIR SC 2970.

Held - In other words, the statements said to be admitted as forming part of res gestae must have been made contemporaneously with the act or immediately



thereafter. Admittedly, the prosecutrix had met her mother Narayani and sister soon after the occurrence, thus, they could have been the best res gestae witnesses, still the prosecution did not think it proper to get their statements recorded. This shows the negligent and casual manner in which the prosecution had conducted the investigation, then the trial. This lacuna has not been explained by the prosecution. The prosecution has not tried to complete this missing link so as to prove it, beyond any doubt, that it was the appellant who had committed the said offences.

Case 6

Jagser vs State Of Haryana, CRA-D-639-DB of 2010 (O&M).

Held - In the present case, corroboration to the dying declaration comes from the statement of PW-1 Mangat Ram, brother, PW-2 Ruldu, father of the deceased, who provided eye witness account, supporting the prosecution story on material aspects. Although they do not state that the accused had set Yashin Khan on fire in their presence, since according to them both the accused had taken Yashin Khan and his wife Pinki to a room of the house, so as to resolve the dispute but they said that after some time Yashin Khan while on fire came running out of the house. Applying the principle of res gestae, it comes out that both accused are clearly connected with the crime. The medical evidence duly corroborates the ocular evidence.

DISCLAIMER

This write up has been sent to you for information purposes only and is intended merely to highlight legal maxim. The information and/or observations contained in this issue do not constitute legal advice and should not be acted upon in any specific situation without appropriate legal advice. The views expressed in this issue do not necessarily constitute the final opinion of M/s.Wallcliffs Law Firm and should you have any queries in relation to any of the issues set out herein or on other areas of law, please feel free to contact us on mail@wallcliffs.com.



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