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# **RELEVANCE OF PRESUMPTION IN THE LAW OF EVIDENCE**

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## **ABSTRACT**

A presumption, either of law or of fact, is an independent piece of evidence that, up until the contrary is established, may or must be derived from a particular set of facts. It has, in general, carved out a niche for itself because it may be used in both civil and criminal situations.

Therefore, this article will look at several instances where presumptions must or may be made before there can be a conviction and how they have been impacted by different judicial and statutory authorities.

## **INTRODUCTION**

The legislative framework on the relevance of assumption in the “law of evidence” is essential in determining the use and application of presumptions in the legal system. While there are different legislative frameworks in various jurisdictions, most countries have statutory provisions that guide the use of presumptions in the law of evidence.

Below “IEA 1872”, there are numerous provisions concerning to presumptions, but the first provision concerning “presumption” comes below section 4, which states as following:-Sec 4 - "May presume" - Whensoever it is provided by this Act that “Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it”.

"Shall presume" – Whenever its engaged by this Act that the “Court shall presume a fact, it shall regard such fact as proved, unless and until it disproved”;

"Conclusive proof" – When one fact is professed by this Act to be “conclusive proof of another, Court shall, on proof of one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it”.

The other provisions regarding to presumption under the “IEA 1872” can bediscussed as follows:

*Section 79- 90A of the IEA deals with Assumption as to Papers*

1. “Section 111A”:Presumption as to certain offences
2. “Sec 113A”: Assumption as to abetment of suicide by a wedded female
3. “Sec 113B”: Assumption as to dowry death
4. “Sec 114”: Court may assume being of certain facts
5. “Sec 114 A”: Assumption as to nonappearance of accord in firm prosecutions for rape

*Section 79-90 A of the IEA deals with Presumption as to Documents*

The “IEA of 1872” is the primary legislation that governs the admissibility of evidence and the proof of facts in Indian courts. “Sections 79-90A of the Act” deal with presumptions as to documents. The presumptions established in these sections are designed to ease the burden of proof on parties in legal proceedings. This essay seeks to explore these presumptions and their significance in the Indian legal system.

**Section 79: Assumption as to Genuineness of Documents:** “Sec 79 of the Indian Evidence Act” provides that every document, which purports to be executed or attested, is supposed to be genuine except the conflicting is shown. This presumption is based on the principle that each document is acquitted until established guilty. It applies to all documents, whether public or private, and whether executed or attested in India or outside India. This presumption as to the genuineness of documents is a crucial aspect of the Indian legal system. It ensures that parties do not have to prove the authenticity of documents in every case. Without this presumption, the burden of proof would be significantly higher, and the administration of justice would be slower and more expensive.

**Section 80: Assumption as to the Date of a Document:** “Sec 80 of the Indian Evidence Act” contracts with the assumption as to the date of a document. The unit provides that every file, which purports to be dated, is presumed to have been executed on the date mentioned in the file except the conflicting is demonstrated. This presumption applies to all documents, whether public or private, and whether

executed or attested in India or outside India. This presumption as to the date of a document is significant because it reduces the burden of proof on parties. It ensures that parties do not have to prove the date of a document in every case. This presumption makes it easier for parties to establish the facts they need to prove their case.

Section 81: Presumption as to the Place of Execution of a Document: “Sec 81 of the Indian Evidence Act” contracts with the assumption as to the place of execution of a document. The sec provides that every document, which purports to be executed outside India, is presumed to have been executed in harmony with the rule of that nation, unless the contrary is proved. This presumption is based on the principle that a document executed outside India is subject to the laws of the country where it was executed.

Section 82: Assumption as to the Stamp of a Document: “Sec 82 of the Indian Evidence Act” contracts with the assumption as to the stamp of a document. The segment provides that every document which purports to be stamped, is supposed to have been accordingly printed, if the contrary is proved. This presumption is based on the principle that a document is presumed to have been stamped, and the “burden of proof lies on the party who asserts that it is not stamped”. This assumption as to the “stamp of a document” is significant because it ensures that parties do not have to prove that a document is duly stamped in every case. This reduces the burden of proof on parties and makes it easier for them to establish the facts they need to prove their case.

Section 83: Assumption as to the File Allowable in Court deprived of Production of the Original: Section 83 of the IEA deals with the presumption as to the document admissible in court without production of the original. The section provides that every document, which purports to be a certified copy of a document, is presumed to be.

*Sec 111A: Presumption as to certain offences*

“Sec 111A of the IEA” deals with the assumption as to firm crimes. This sec provides that if a being is found in ownership of any “narcotic drug or psychotropic substance”, in a quantity exceeding the specified limit, then the “burden of proof” transfers to the suspect to demonstrate that he had no knowledge of the presence of such drugs or substances.

Significance of Section 111A: Section 111A is a significant provision in the Indian legal system as it changes the burden of proof to the suspect in cases where he is found in possession of “narcotic drugs or psychotropic substances”. This provision is based on the principle that a person who is in possession of a large quantity of such drugs or substances is likely to be involved in their trafficking or sale. The presumption created by Section 111A reduces the burden of proof on the trial. In cases where accused is found in ownership of a large quantity of narcotic drugs or psychotropic substances, the prosecution does not have to demonstrate that the suspect had information of the presence of the substance. The burden of proof changes to the suspects, who has to prove that he had no information of the presence of the matter.

This provision is significant because it helps in curbing the trafficking and sale of narcotic drugs and psychotropic substances. The provision acts as a deterrent to those who may be involved in such activities. It also makes it easier for law enforcement agencies to prosecute such cases.

Criticism of Section 111A: Despite its significance, Section 111A has also been subject to criticism. One of the criticisms of this provision is that it violates the principle of assumption of blamelessness. The assumption of guiltlessness is an important belief of criminal law. It delivers that a person is innocent until proven guilty. However, Section 111A creates a presumption of guilt, which is contrary to the code of belief of blamelessness.

#### *Sec 113A: Presumption as to abetment of suicide by a married woman*

“Sec 113A of the IEA” contracts with the assumption as to “abetment of suicide by a married woman”. This section provides that if a wedded lady obligates suicide within seven years of her wedding and there is evidence to suggest that her husband or his relatives subjected her to unkindness, then the burden of proof changes to the accused to prove that he had no role in the suicide. This essay seeks to explore the significance of this presumption in the Indian legal system.

Sec 113A: Presumption as to abetment of suicide by a wedded lady: “Sec 113A of the IEA” was introduced by the “Criminal Law (Second Amendment) Act, 1983”. The section applies to cases where a wedded female pledges suicide within seven years of her wedding and there is evidence to suggest that her husband or his families subjected her to brutality. The sec provides if a married female

commits suicide within seven years of her wedding and there is evidence to suggest that her husband or his relations exposed her to unkindness, then the court may presume that the suicide was abetted by the husband or his relatives. The “burden of proof” then moves to the accused to prove that he had no role in the suicide.

**Significance of Section 113A:** Section 113A is a significant provision in the Indian legal system as it provides protection to married women who may be exposed to cruelty by their husbands or his families. The presumption created by Section 113A is based on the principle that a person who subjects a woman to cruelty may be held responsible for her suicide. The provision of this section reduces the “burden of proof on the prosecution”. In cases where a married woman obligates suicide within seven years of her marriage and there is evidence to suggest that she was subjected to cruelty by her husband or his relatives, the prosecution does not have to prove that the accused had a direct role in the suicide. The “burden of proof” moves to the suspect, who has to demonstrate that he had no role in the suicide.

**Criticism of Section 113A:** Despite its significance, Section 113A has also been subject to criticism. One of the criticisms of this provision is that it violates the principle of assumption of guiltlessness. The assumption of blamelessness is an important code of criminal law. It delivers that a person is innocent until proven guilty. However, Section 113A creates a presumption of guilt, which is contrary to the belief of belief of blamelessness.

#### *Sec 113B: Presumption as to dowry death*

Dowry is a social evil that has plagued Indian society for centuries. The practice of dowry has led to the oppression and victimization of women. The Indian legal system has recognized this issue and has enacted several provisions to curb this practice. One such provision is Sec 113B of the “IEA”, which contracts with the assumption as to dowry death. This essay seeks to explore the significance of this provision in the Indian legal system.

“Section 113B: Presumption as to dowry death: Sec 113B of the IEA” was introduced by the “Criminal Law (Second Amendment) Act, 1983”. This section provides for a assumption as to wedding gift demise. The section smears to cases where the death of a woman has happened within seven years of

her wedding and there is evidence to suggest that she was exposed to unkindness or aggravation by her husband or his relations for dowry.

The section provides that if the prosecution is able to prove that the woman was exposed to cruelty or harassment by her partner or his families for dowry, then the court shall presumed that the death was a dowry death. The burden of proof then moves to the accused to demonstrate that he had no role in the death.

Significance of Sec113B: Section 113B is a significant provision in the Indian legal system as it provides protection to women who may be victims of dowry harassment. The presumption created by Section 113B is based on the principle that a person who subjects a woman to cruelty or harassment for dowry may be held responsible for her death.

Criticism of Section 113B: Despite its significance, Section 113B has also been subject to criticism. One of the criticisms of this provision is that it violates the principle of assumption of innocence. The assumption of innocence is an important attitude of criminal law. It delivers that a person is innocent until proven guilty. However, Section 113B creates a presumption of guilt, which is contrary to the code of assumption of innocence.

*Sec 114: Court may presume existence of certain facts*

Indian Evidence Act, 1872” contains several provisions that deal with the admissibility of evidence in courts of law. One such provision is Section 114, which deals with the court's influence to presume the existence of certain facts. This provision plays a significant part in determining the outcome of a case as it permits the court to draw implications from the evidence presented before it. This essay seeks to explore the significance of Section 114 in the Indian legal system.

Sec114: Court may believe the being of some facts: “Sec 114 of the IEA” provides that the court of law may assume the being of certain facts. The section is alienated into two parts - the first part deals with the general power of the court to presume the existence of certain proofs, while the second part deals with the specific instances where the court may assume the existence of certain facts.

The general power of the court to assume the being of certain facts is based on the principle that the court is permitted to assume the being of facts that are likely to have occurred based on the evidence presented before it. The court is also permitted to draw implications from the evidence presented before it and to assume the being of facts that are necessary to support such inferences.

The second part of Section 114 deals with specific instances where the court may assume the being of certain facts. These instances are based on common sense and the experience of human affairs. For example, the court may presume that a being who is exposed to have been in ownership of pinched belongings is the thief unless he can provide a reasonable explanation for his possession of the goods. Significance of Section 114: Section 114 is a significant provision in the Indian legal system as it lets the court to draw implications from the evidence presented before it. The provision of this sec reduces the burden of proof on the prosecution. In cases where there is a lack of direct evidence, the court may rely on circumstantial evidence and presume the existence of certain facts.

*Sec 114 A: Presumption as to absence of consent in certain prosecutions for rape*

The crime of rape is a heinous offence that is considered one of the most serious crimes against a person's dignity and autonomy. "Section 114A of the IEA, 1872", contracts with the assumption as to the nonappearance of consensus in sure trials for rape. In this essay, we will discuss the significance of Section 114A, its scope, and its practical applications.

This provision has been introduced to address the difficulties that victims of rape face in proving lack of consensus. It is grounded on the code that in cases of rape, the victim is often in a vulnerable position, and it is difficult for her to resist or give her consent to the sexual act. The presumption under Section 114A shifts the "burden of proof on the accused to prove that there was consent from the victim".

Scope of Section 114A: Section 114A applies only in cases of rape and does not apply to cases of consensual sexual intercourse. The presumption under this provision applies only in cases where sensual contact is demonstrated, and the question is whether the sexual intercourse was without the consensus of the woman assumed to have been raped. The presumption does not apply to cases where the victim has given her consent to sexual intercourse.

The burden of proof lies on the suspect to prove that there was consensus from the victim. The prosecution does not have to prove that the victim did not give her consent. The court is required to presume that the victim did not give her consent, and it is up to the accused to rebut this presumption. Practical applications of Section 114A: Section 114A has been applied in various cases by the courts in India. In a recent case, the Supreme Court of India relied on Section 114A to convict a man of raping a minor. The court held that the prosecution had proved sexual intercourse, and the burden of proving consent lay on the suspect. The accused failed to prove that there was consent from the victim, and the court convicted him of rape.

In another case, the court relied on Section 114A to convict a man of raping a woman who was mentally challenged. The court held that the prosecution had proved sexual intercourse, and the burden of proving consent lay on the suspect. The accused failed to prove that there was consent from the victim, and the court convicted him of rape.

## **CONCLUSION**

The legislative framework on the relevance of assumption in the “law of evidence” is essential in guiding the use and application of presumptions in the legal system. While the legislative framework provides clarity and certainty, it can also create rigid and inflexible presumptions that do not take into account the unique circumstances of a case. Additionally, the legislative framework can create presumptions that are difficult to disprove, leading to a burden on the party without the benefit of the presumption. As such, there is a need to balance the advantages of the legislative framework with the need to ensure that it does not lead to injustice or unfair outcomes.