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**CORROBORATION, CAUTION, AND COERCION: A  
SOCIO-LEGAL ANALYSIS OF ACCOMPLICE  
TESTIMONY WITH REFERENCE TO DAGDU & ORS.  
VS STATE OF MAHARASHTRA (1977)**

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***Abstract***

This paper critically examines accomplice testimony under Indian evidence law, centering on the Supreme Court's landmark ruling in *Dagdu & Ors. v. State of Maharashtra* (1977)<sup>1</sup>. The decision harmonized *Section 138<sup>2</sup> of the Bharatiya Sakshya Adhinyam, 2023* (formerly Section 133, IEA 1872), which permits conviction on uncorroborated accomplice evidence, with the rule of prudence under Illustration (b) to Section 119 (formerly Section 114), mandating independent corroboration in material particulars to guard against fabrication, self-interest, and manipulation, especially in secretive, ritualistic crimes reliant on insider accounts.<sup>3</sup> The research gap lies in the under-explored conflict between the practical necessity of approver testimony to overcome investigative shortcomings and its socio-legal risks, including coercive incentives and disproportionate harm to marginalized communities amid high undertrial detention rates (73–78% per NCRB 2023). Through doctrinal analysis of statutes, precedents (e.g., *Bhuboni Sahu*), and socio-legal critique informed by Law Commission reports, the paper reveals that while *Dagdu* set rigorous tests for trustworthiness and specific corroboration, such evidence frequently substitutes for weak forensics and police pressures in sensational cases. The findings underscore the need for systemic reform beyond judicial safeguards, prioritizing enhanced investigative quality to reduce reliance on potentially tainted testimony and better protect vulnerable accused.

**Keywords:** *Accomplice Testimony, Corroboration, Bharatiya Sakshya Adhinyam 2023, Dagdu v. State of Maharashtra, Judicial Prudence.*

<sup>1</sup> *Dagdu v State of Maharashtra* (1977) 3 SCC 68.

<sup>2</sup> *Bharatiya Sakshya Adhinyam 2023*, s 138.

<sup>3</sup> 'Accomplice (Section 138 of BSA)' (*The LawGist*) <https://thelawgist.org/accomplice-section-138-of-bsa/> accessed 26 November 2025.

## Introduction

The Indian law of evidence also serves as a model for the 'law of evidence' in several other common law countries and is primarily based on English common evidence course is meant as neither an exhaustive, detailed study nor a mere introductory survey of Indian Evidence Act. At the heart of this regime is that of accomplice evidence, which involves the testimony of a witness who was directly involved in commission of the crime but has opted to testify against co-accused.<sup>4</sup>

Nevertheless, a partner in crime's declaration also raises quite a few profound concerns about morality and legality. Ethically, such proof is very questionable and may suggest the person responsible who, in a deceitful manner, exposes others for his/her own advantage. The juridical aspect of the issue challenges the honesty and the intent of the given statement: In pursuit of amnesty or a shortened prison term, accomplices may invent incidents, motivated by self-interest rather than truthfulness. This fundamental untrustworthiness which is a major problem, necessitates vigilant examination since biases or influences may affect their utterances. Besides, the matter of confirming the statement is taken into account as well; even if the witness is competent, the court has to decide whether the statement is referred to as being firm enough to be self-standing or if it is accompanied by other proofs so as to lower the instances of lying and manipulation, thereby granting the trial's fairness to the defendant.

Section 138 of the Bharatiya Sakshya Adhinyam, 2023 (hereinafter referred to as BSA, 2023) states that an accomplice can be recognized as a legitimate witness who can be used against the accused, and it is proper to make such a conviction if it is based on the corroborated evidence of an accomplice.<sup>5</sup> This regulation, which was formerly Section 133 of the Indian Evidence Act 1872, is a sign of the continuance of the acknowledgment of such evidence but now it very explicitly indicates the necessity for corroboration, thus showing a movement towards obligatory protective measures in the new act.<sup>6</sup> It formalizes a longstanding judicial

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<sup>4</sup> Justice Narayana Pisharadi, 'Testimony of An Accomplice – Any Shift in the BSA?' (*LiveLaw*, 29 May 2025) <https://www.livelaw.in/articles/accomplice-testimony-admissibility-section-133-evidence-act-vs-section-138-bharatiya-sakshya-adhinyam-293694> accessed 25 December 2025.

<sup>5</sup> V Ramasubramanian, 'Section 138 BSA Is The Misconceived Product Of Judicial Misinterpretation' (*LiveLaw*, 22 October 2025) <https://www.livelaw.in/articles/accomplice-testimony-and-section-138-bharatiya-sakshya-adhinyam-analysis-307532> accessed 23 November 2025.

<sup>6</sup> Yushmita Sidar, 'From Untrustworthy to Trustworthy? The Bharatiya Sakshya Adhinyam's Mandatory Corroboration of Accomplice Evidence' (*Criminal Law Blog*, 23 July 2024) <https://criminallawstudiesnluj.wordpress.com/2024/07/23/from-untrustworthy-to-trustworthy-the-bharatiya-sakshya-adhinyams-mandatory-corroboration-of-accomplice-evidence/> accessed 29 November 2025.

caution, averting excessive dependence on possibly unreliable sources.

Therefore, with respect to such context, the case of *Dagdu v. State of Maharashtra (1977)*<sup>7</sup> helps in the understanding of the judicial treatment of accomplice evidence, where the Supreme Court harmonized legal admissibility with prudential caution, affirming that while uncorroborated testimony is not barred under the old law, corroboration in material particulars is essential for safe conviction.<sup>8</sup>

Beyond its formal status as a rule of evidence, accomplice testimony functions as a powerful social bargaining mechanism within the Indian criminal justice system. Prosecutors frequently offer incentives, such as pardon under Section 306 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly CrPC), reduced charges, or leniency in sentencing, to induce a participant in the crime (often termed an approver) to turn state's witness and testify against co-accused. This arrangement reflects a pragmatic trade-off: the accomplice secures personal advantage, by "bargaining" away loyalty to criminal associates and providing insider information that might otherwise remain hidden in conspiratorial or secretive offences. Judicial decisions, including those interpreting the erstwhile Sections 133 and 114 (Illustration b) of the Indian Evidence Act, 1872, and now formalized in Section 138 of the BSA, 2023, acknowledge this dynamic, where the witness's self-interest inherently taints reliability, necessitating safeguards like mandatory corroboration to mitigate the risk of fabricated or exaggerated accounts driven by personal gain.

This reliance on accomplice testimony also exposes deeper institutional weaknesses in India's criminal justice framework, one of them being the over-dependence on such evidence which often stems from systemic deficiencies, including inadequate forensic capabilities, limited scientific investigation resources, and excessive reliance on police-extracted confessions (many of which are retracted). In complex cases like that in *Dagdu* offences often lack physical traces, direct evidence is scarce, compels prosecutors to leverage accomplices as a workaround. Furthermore, the doctrine impacts accused persons unevenly, disproportionately affecting those from marginalized, secret, or belief-based communities, especially in cases involving caste-based violence, communal tensions, terrorist networks, or offences within close-knit or

<sup>7</sup> *Dagdu v State of Maharashtra* AIR 1977 SC 1579.

<sup>8</sup> 'A Critical Analysis of Accomplice Evidence in Criminal Trial' (2022) 16(9) *International Journal of Economic Perspectives* 36 <<https://ijeponline.lingcure.org/index.php/journal/article/view/388>> accessed 23 November.

socio-economically disadvantaged groups, where “codes of silence” prevail, accomplice testimony can be wielded more readily against vulnerable defendants who lack resources to challenge it effectively.<sup>9</sup> Such individuals often face heightened risks of wrongful implication due to biased incentives, coercive pressures on the accomplice, or the absence of strong alibi or forensic defences.<sup>10</sup>

## Concept and Legal Basis of Accomplice Testimony

### Definition and Meaning

Section 138 of the BSA, 2023 states:

*“An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.”*

Therefore, an accomplice is someone who knowingly and voluntarily joins in committing a crime. They don't have to be the main offender; helping, encouraging, or even standing by with intent can make them one. In simple terms, if you are part of the plan or the act, you are an accomplice.

Courts have also clarified this over time. The English case *R. v. Baskerville* (1916)<sup>11</sup> set a benchmark: an accomplice must have conscious complicity, active and knowing participation in the criminal act. That being said, in *Somasundaram v State* (2020)<sup>12</sup>, the Supreme Court said an accomplice is a person who participates in the offence with common intention, whether as a principal, abettor, or conspirator, including people who turn “approver” by confessing and testifying against others under Section 306 CrPC.

This makes accomplice evidence admissible and sufficient in strict legal terms, for conviction, even if there is no corroboration of the material facts. And with that, this position represents a choice to prioritize evidentiary utility over inherent unreliability.

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<sup>9</sup> Chhaya and Yogendra Singh, ‘Caste-Based Violence and Its Perpetuation in Rural India: A Case Study of Muzaffarnagar Riots’ (2023) 10(2) *International Journal of Research and Analytical Reviews* 695 <https://ijrar.org/papers/IJRAR23B2625.pdf> accessed 29 December 2025.

<sup>10</sup> Neeraj Malik, ‘WITNESS RELIABILITY IN CRIMINAL TRIALS’ (2024) 5(1) *ShodhKosh: Journal of Visual and Performing Arts* 912 <https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/2279> accessed 29 December 2025.

<sup>11</sup> *R v Baskerville* 2 KB 658 (CCA).

<sup>12</sup> *Somasundaram v State* (2020) 7 SCC 722.

### **The Principle of Corroboration (Illustration (b) to Section 119)**

While, Section 138 establishes legal sufficiency, Section 119, Illustration (b) of the BSA (formerly Section 114, Illustration (b) of the Indian Evidence Act, 1872) introduces a countervailing statement saying that courts may presume that an accomplice is unworthy of credit unless corroborated in material particulars.

Before the landmark *Dagdu* case, in *Sarwan Singh v. State of Punjab* (1957)<sup>13</sup>, the Supreme Court said: “An accomplice is a tainted witness... his evidence must be tested with caution.”

### **Rationale**

*Why allow such risky evidence at all?*

In crimes like dacoity, conspiracy, or terrorism, outsiders rarely see what happens, leaving only insiders to know the full story. Without accomplice testimony, many guilty people would walk free. The law chooses to use a flawed witness than have no witness at all.

Accomplices testify to save themselves, under such kinds of inducements, typically in exchange for pardon or leniency (lighter punishment). Their evidence may be influenced by the want to secure any personal benefit, pressure from investigating agencies, or the tendency to shift the blame. So, there are chances they might:

- Lie to please the police (for personal gain)
- Exaggerate others' roles
- Hide their own guilt

Such motivations undermine credibility. Corroboration, which is the independent evidence confirming material facts, safeguards against falsehood. Therefore, there exists a dual approach: legal acceptance and judicial caution which protects both society's need for justice and the accused's right to a fair trial.

## **Socio-Legal Context of Accomplice Testimony in India**

### **Power Symmetry**

For accomplices, cooperation is rarely voluntary. With undertrials constituting about 76% of India's prison population (NCRB, 2023), prolonged pre-trial detention becomes a coercive tool, making approver status a means to escape custodial violence and indefinite incarceration.<sup>14</sup> The Law Commission's 277th Report on *Wrongful Prosecution* acknowledges

<sup>13</sup> *Sarwan Singh Rattan Singh v. State of Punjab* AIR 1957 SC 637.

<sup>14</sup> Kunwar Abhay Pratap Singh and Rajeew Kumar Singh, 'A Critical Legal Study on Issues Relating to Custodial Violence in India: Contemporary Issues and Prospects' (2025) 5(7) *International Journal of Advanced Research*

that investigative pressure and custodial coercion frequently distort testimony, while its consultation on Witness Identity Protection similarly cautions that although witness safety is essential, cooperation mechanisms must be designed to prevent manipulation by dominant actors.<sup>15</sup> Within groups of co-accused, bargaining asymmetry intensifies: an insider with slightly better access to counsel or police protection can trade testimony for leniency, while poorer, lower-caste, or migrant co-accused lack the capacity to effectively challenge such narratives.

### **Institutional Incentives**

Police and prosecutorial incentives further skew outcomes, as persistent criticism, from *Law Commission reports* to the *UNODC Technical Assistance Compendium*, highlights systemic pressure to “solve” cases amid low conviction rates, a pressure that is intensified in heinous crimes, communal violence, or terror trials where public outrage makes approvers instrumental in constructing coherent narratives that often substitute confession-based reconstructions for empirical proof.<sup>16</sup> Prosecutors, often evaluated by conviction rates rather than investigative quality, operate within this logic. Judicial rhetoric following the Supreme Court’s endorsement of the **Witness Protection Scheme (2018–19)** valorises cooperating witnesses, but this moral framing risks blurring the line between voluntary cooperation and compliance induced by fear.<sup>17</sup>

### **Social Costs**

The social costs fall disproportionately on marginalised communities, as Dalits, Adivasis, and minorities, already overrepresented among undertrials, face heightened risks of wrongful implication when accomplice testimony reinforces existing stereotypes. Both Law Commission and *UNODC* materials note that custodial threats and torture, especially in weak forensic environments, produce false implication, with “corroboration” often emerging from the same

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in *Science, Communication and Technology* 530, DOI: 10.48175/568 <https://ijarsct.co.in/Paper25489.pdf> accessed 29 December 2025.

<sup>15</sup> Jon B Gould and Richard A Leo, ‘One Hundred Years Later: Wrongful Convictions after a Century of Research’ (2010) 100(3) *Journal of Criminal Law and Criminology* 825 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7364&context=jc> accessed 25 December 2025.

<sup>16</sup> United Nations Office on Drugs and Crime, *Technical Assistance Handbook on Appropriate Use of Non-Custodial Measures for Terrorism-Related Offences* (UNODC Vienna 2020) [https://www.unodc.org/pdf/terrorism/UNODC\\_Technical\\_Assistance\\_Handbook\\_-\\_Electronic\\_ENG.pdf](https://www.unodc.org/pdf/terrorism/UNODC_Technical_Assistance_Handbook_-_Electronic_ENG.pdf) accessed 29 December 2025.

<sup>17</sup> Ishika Shrivastava, ‘Judicial Analysis of Witness Protection Scheme, 2018’ (2024) 6(4) *International Journal of Law, Policy and Social Review* 71 <https://www.lawjournals.net/assets/archives/2024/vol6issue4/6137.pdf> accessed 29 December 2025.

coercive ecosystem.<sup>18</sup> In ritual-belief or caste-based crimes, such as witch-branding or honour killings, accomplice testimony frequently entrenches dominant-caste or patriarchal narratives rather than establishing factual guilt.

### Facts of the case

The case concerns ten brutal and ritualistic murders in Manwat village, Maharashtra, resulting in the deaths of five young girls, an infant, and four adult women. The prosecution alleged that the killings were part of an occult-based conspiracy aimed at appeasing a local deity, “*Munjaba*,” to enhance fertility and recover a rumored treasure buried beneath a *Pimpal* tree at the residence of Accused No. 1 (Rukhmini) and her lover, Accused No. 2 (Uttamrao).

The prosecution case rested predominantly on the testimonies of two accomplices turned approvers, Ganpat (P.W.1) and Shankar (P.W.2), who were granted pardon. Their evidence sought to establish both the conspiracy and the sequence of murders. Shankar admitted participation in the first four killings alongside Accused No. 3 and claimed that blood extracted from the victims’ genital organs was sent to Accused Nos. 1 and 2 for ritualistic purposes, making his testimony the backbone of the prosecution narrative. However, his police statement and Section 164 CrPC deposition contained significant omissions regarding the involvement of Accused Nos. 1 and 2, with incriminating details surfacing only during trial, raising serious doubts about credibility and motive.

Ganpat, the second approver, was found wholly unreliable, as his testimony was riddled with contradictions and appeared to be the product of prolonged and harsh police custody. The Supreme Court therefore rejected his evidence in its entirety.

Despite the tainted nature of approver testimony, the prosecution relied on it alongside alleged recoveries, motives, and ritualistic practices linked to the *Pimpal* tree, none of which were independently corroborated. While Section 133 of the Evidence Act permits conviction on uncorroborated accomplice testimony, Illustration (b) to Section 114 warns of its inherent unreliability. Ultimately, corroboration was sufficient to convict Accused No. 3 and others, but Accused Nos. 1 and 2 were acquitted for want of independent supporting evidence.

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<sup>18</sup> United Nations Office on Drugs and Crime, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* (UNODC Vienna 2010) ISBN 978-92-1-130295-0 [https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA\\_Report\\_2010\\_low\\_res.pdf](https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf) accessed 29 December 2025.

The case raises crucial questions regarding the reconciliation of evidentiary provisions under the Bharatiya Sakshya Adhiniyam, 2023, the circumstances under which accomplice testimony may sustain conviction, the effect of pardon on witness credibility, and whether statutory corroboration should replace judicial discretion.

## Judicial Reasoning & Decision

### **Interpretation of Section 138 of the BSA and Illustration (b) of Section 119:**

The Supreme Court upon meticulous examination of the evidentiary rule governing accomplice testimony, precisely the sections 138 & illustration (b) of 119, respectively, reconciled these two provisions, and emphasized the fact that they operate in distinct spheres, that is, Section 138 sets out the legal admissibility of accomplice evidence whereas Illustration (b) of section 119 embodies a 'rule of prudence' which has evolved through judicial experience.

Paragraph 21, states the following:

*“It is hazardous, as a matter of prudence, to proceed upon the evidence of a self-confessed criminal, who, in so far as an approver is concerned, has to testify in terms of the pardon tendered to him. The risk involved in convicting an accused on the testimony of an accomplice, unless it is corroborated in material particulars, is so real and potent that what, during the early development of law was felt to be a matter of prudence has been elevated by judicial experience into a requirement or rule of law. All the same, it is necessary to understand that what has hardened into a rule of law is not that the conviction is illegal if it proceeds upon the uncorroborated testimony of an accomplice but that the rule of corroboration must be present to the mind of the Judge and that corroboration (sic) may be dispensed with only if the peculiar circumstances of a case make it safe to dispense with it.”*

Hence, the Court makes it explicit that not every conviction based on an accomplice's testimony is perforce invalid. But the trial judge must look for some independent corroborating evidence and may reject it only if respect to the case, there is something inherently safe that points unmistakably to its being true.

### **Tests Laid Down: When may accomplice evidence be accepted?**

The Supreme Court in *Dagdu* laid down clear tests for relying on accomplice testimony. First, the accomplice's narrative must appear trustworthy and internally consistent. Second, there must be independent corroboration that connects the accused to the crime, rather than merely

supporting the general story.<sup>19</sup>

Drawing from *Bhuboni Sahu v. The King (1949)*<sup>20</sup>, the Court emphasized that the primary danger lies not just in the accomplice's bad character or self-interest, but in the risk that a story true in its broad outline can easily incorporate false details to implicate innocents (e.g., personal enemies). The quote highlights: “...*the real danger is that he is telling a story which in its general outline is true, and it is easy for him to work into the story matter which is untrue.*” Thus, the only effective safeguard is independent evidence implicating each accused individually.

This led to the insistence on corroboration in material particulars, not every detail, but key elements linking the accused to the offence. As the Court clarified, corroboration “need not extend to every detail” but must relate to material aspects connecting the accused with the crime, and it suffices if it tends to incriminate without being direct proof of commission.

The corroboration must be independent, credible, and substantively incriminating. In the case, Shankar’s evidence was broadly corroborated in outline, but the Court required specific independent material particulars to fasten guilt on accused No. 3. For accused Nos. 1 and 2, no such corroboration existed for the conspiracy, leading the Court to reject reliance on the approvers’ testimony against them. This approach underscores a qualitative, rigorous standard to ensure safe conviction.

### **Outcome of the case:**

Applying these principles, the Court dealt with the two accomplices differently.

- Ganpat whose testimony was riddled with contradictions, was held to be “utterly worthless”, and his narrative was rejected entirely.
- On the other hand, Shankar, although more consistent had made “studied improvements” to implicate accused nos. 1 & 2, but lacked independent corroboration on crucial points.

Consequently, the Court acquitted accused nos. 1 & 2, saying that no reliable corroboration linked them to any conspiracy or ritualistic motive. However, for accused no. 3 the court

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<sup>19</sup> Chhattisgarh State Judicial Academy, Memo No 552 (23 July 2022) [https://csja.gov.in/images/office\\_order/2022/memo\\_no\\_552\\_23072022.pdf](https://csja.gov.in/images/office_order/2022/memo_no_552_23072022.pdf) accessed 26 November 2025.

<sup>20</sup> *Bhuboni Sahu v The King* AIR 1949 PC 25 (PC).

found adequate corroboration through recoveries and medical evidence, where the material particulars were sufficiently independent to go ahead with the conviction.

Hence, the final decision reaffirmed the central principle: an accomplice may be competent, but his words cannot convict unless independently confirmed in material particulars; *(reaffirming the accomplice testimony- though legally sufficient in theory, can never be the sole basis for conviction in practice unless the stringent requirements of corroboration are met.)*

### **Judicial Reasoning in its Socio-Cultural Context**

The crimes in Dagdu were embedded in entrenched belief systems involving occult practices, such as rituals to appease supernatural entities like Munjaba through sacrifices. This setting inherently limits objective evidence, as secretive acts rely on subjective interpretations rather than verifiable traces. Prosecutions thus lean toward narrative-driven accounts, increasing dependence on insider testimonies prone to cultural embellishment. The Supreme Court's demand for strict corroboration counters this by requiring tangible links to independent sources, preventing undue reliance on testimonies shaped by mystical rationales.

The selection of young girls and women as victims underscored gendered victimhood, fueling moral panic and community outrage over perceived threats to vulnerable groups. In such high-profile cases, external pressures can push toward convictions to restore social order. The judiciary's response, through elevated caution, ensures that accomplice evidence is not accepted without substantiation, mitigating risks of judgments influenced by collective hysteria rather than factual rigor.

Approvers, positioned as insiders, can architect narratives that resonate with cultural tropes of ritualism, crafting stories that appear coherent yet resist easy disproof due to their intangible elements. This capacity for manufactured alignment heightens the potential for manipulation. By insisting on corroboration in material particulars, the Court establishes a mechanism to test these constructs against external proofs, dissecting narrative plausibility.

The Court's approach reveals underlying judicial anxiety about wrongful convictions amid socio-cultural complexities. The prudence rule acts as a safeguard, integrating legal standards with awareness of how beliefs and emotions can distort evidentiary processes.

## Analytical Discussion

The decision in this case has a significant place in Indian Evidence law as it clarified, definitively and authoritatively, the relationship between Section 133 and Illustration (b) to Section 114 of the Evidence Act, 1872; harmonizing both provisions, the Court, as per Justice D. Y. Chandrachud, resolved this apparent conflict by establishing the “rule of prudence”- while uncorroborated testimony is not illegal, it is practically unsafe, demanding independent corroboration to ensure reliability.

The case goes on to explain the scenario in which a testimony of an accomplice can be the most decisive factor in a conviction, particularly when a pardon has been taken out, thus it being indicated that the giving of pardon does not in any way help the credibility; on the contrary, it may even raise the suspicion further since the approver has been testifying under motives, hopes, or even coercion. The Court’s handling of Ganpat and Shankar is a vivid example of this: Ganpat was completely denied by the Court due to his lack of credibility, whereas Shankar was partially allowed only to the extent of the corroborated evidence.

This doctrinal balance became the foundation for later cases. In *Suresh Chandra Bhai v. State of Bihar* (1995)<sup>21</sup>, the Supreme Court reiterated the exact standard raised in the Dagdu case, holding that the accomplice testimony must be “reliable, cogent, and supported by material particulars”. Similarly, in *State of Rajasthan v. Raja Ram* (2003)<sup>22</sup>, the Court reconfirmed that the entire purpose of corroboration is to test credibility.

## Critical and Socio-Legal Evaluation

This analysis raises a foundational question: why does the criminal justice system extend pardon to accomplices? The rationale lies not in sympathy, but in pragmatic necessity.

First, pardon serves to break the wall of silence surrounding secret crimes, such as conspiracy, terrorism, organised crime, dacoity, large-scale corruption, and ritual murders like those in the *Dagdu* case, where offences are committed in complete secrecy and outsiders rarely witness them.<sup>23</sup> Without an insider turning approver, prosecution often lacks evidence altogether. This

<sup>21</sup> Suresh Chandra Bahri v. State of Bihar, 1994 AIR 2420.

<sup>22</sup> State of Rajasthan v. Raja Ram, (2003) 8 SCC 180.

<sup>23</sup> UNODC, ‘Special Investigative Techniques and Intelligence Gathering’ in Organized Crime: Module 8 (*Education for Justice*, May 2018) <<https://www.unodc.org/e4j/en/organized-crime/module-8/key-issues/special-investigative-techniques/intro.html>> accessed 22 November 2025.

principle was reaffirmed in *State of Maharashtra v. Abu Salem* (2010)<sup>24</sup>, where the Supreme Court observed that the object of Section 306 CrPC is to unravel the truth in grave offences committed by several persons, so that the guilt of other accused can be established. Thus, tender of pardon enables conviction of dangerous offenders when crimes are otherwise impossible to prove.<sup>25</sup>

Second, public interest is prioritised over equal punishment, as the State's objective is not to punish every participant uniformly but to dismantle the entire criminal enterprise.<sup>26</sup> In *Dagdu*, accomplices Ganpat and Shankar were indispensable in uncovering the murder of ten women; using lesser offenders to reach masterminds or principal perpetrators is treated as a justified trade-off.<sup>27</sup>

Third, the pardon mechanism incorporates built-in safeguards; Pardon is conditional upon a "full and true disclosure" under *Section 306(4) CrPC*<sup>28</sup>, and under *Section 308 CrPC*<sup>29</sup>, it may be revoked if the approver gives false or incomplete testimony, exposing them to prosecution with additional charges and this conditionality incentivises truth-telling.<sup>30</sup>

Fourth, the legitimacy of this bargain has been repeatedly upheld. In *Suresh Chandra Bahri v. State of Bihar* (1994)<sup>31</sup>, the Supreme Court stated that the law allows courts to prefer approver testimony over the risk of failure of justice. The system thus accepts the immunity of a lesser offender as the price for convicting more dangerous criminals and deterring future secret crimes.

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<sup>24</sup> MANU/SC/0790/2010

<sup>25</sup> Harmanpreet Kaur, 'Tender of Pardon to Accomplice' <<https://www.scribd.com/document/466547475/Tender-of-pardon-to-accomplice>> accessed 22 November 2025; 'Chapter 14: Approvers' (Chandigarh High Court) <[https://highcourthd.gov.in/sub\\_pages/top\\_menu/about/events\\_files/chap14.pdf](https://highcourthd.gov.in/sub_pages/top_menu/about/events_files/chap14.pdf)> accessed 23 November 2025.

<sup>26</sup> Wex Definitions Team, 'Immunity from Prosecution' (*Legal Information Institute*, Cornell Law School, February 2023) [https://www.law.cornell.edu/wex/immunity\\_from\\_prosecution](https://www.law.cornell.edu/wex/immunity_from_prosecution) accessed 23 November 2025.

<sup>27</sup> Douglas L Oliver, 'Engineers and White-Collar Crime' (2009) 1(1) JLADR 32 <<https://ascelibrary.org/doi/10.1061/%28ASCE%291943-4162%282009%291%3A1%2832%29>> accessed 24 November 2025.

<sup>28</sup> Code of Criminal Procedure 1973, s 306(4).

<sup>29</sup> Code of Criminal Procedure 1973, s 308.

<sup>30</sup> T R Patel, 'Tender of Pardon to Accomplice: A Critical Study' (2021) 8(6) Nat Volatiles Essent Oils 13723.

<sup>31</sup> Suresh Chandra Bahri v State of Bihar AIR 1994 SC 2420.

**However, this pragmatic approach warrants deeper scrutiny.**

- A. Fair Trial Concerns:** Pardon-based testimony raises concerns under Article 21.<sup>32</sup> Although courts insist on corroboration, *Dagdu* illustrates vulnerabilities, Shankar made “studied improvements” by implicating Accused Nos. 1 and 2 only later, demonstrating how subtle fabrications may evade detection. Overburdened trial courts, prolonged custody, and possible coaching (as in Ganpat’s case) weaken procedural safeguards, subtly shifting the burden onto the accused to disprove tainted testimony and resulting in prolonged trials, social stigma, and erosion of public trust.<sup>33</sup>
- B. Class and Marginality:** Approvers often emerge from economically weaker sections, and in *Dagdu*, Ganpat and Shankar, low-status villagers, likely turned approvers under poverty and police pressure, making pardon a survival strategy rather than a moral choice.<sup>34</sup> Simultaneously, accused in belief-based crimes tied to rural or occult practices often lack legal and social capital, reinforcing structural inequalities and selective vulnerability within the justice system.
- C. Systemic Dependence on Approvers:** Heavy reliance on approvers signals investigative deficiencies. In *Dagdu*, the absence of strong forensic evidence forced dependence on testimonial linkage, normalising “compromise justice,” encouraging lazy policing, and risking the institutionalisation of investigative shortcuts, particularly in organised crime and terror cases, thereby undermining systemic integrity.<sup>35</sup> Finally, the question arises whether **corroboration should be statutorily mandated** to resolve tension between Section 138 and Illustration (b) of the Bharatiya Sakshya Adhiniyam, 2023. The legislature has deliberately retained flexibility because mandatory corroboration could collapse prosecutions in secret crimes; some accomplice testimonies may be intrinsically reliable; judicial discretion must prevail over rigid rules; and, in practice, courts already insist on corroboration as a rule of prudence. Uncorroborated convictions remain rare and are often overturned on appeal.

<sup>32</sup> Parul Kumar, 'The Executive Power to Pardon: Dilemmas of the Constitutional Discourse' (2009) 2 *NUJS L Rev* 9 <https://nujslawreview.org/wp-content/uploads/2016/12/parul-kumar.pdf> accessed 29 December 2025.

<sup>33</sup> Akash Raghav, Smriti Rai, Prateek Kumar Raghav and Lekha, 'Pendency of Cases in India and Its Impact on Fundamental Rights of the Individual under Article 21 – The Way Forward' (2025) 13(5) *International Journal of Creative Research Thoughts* d749 <https://ijcrt.org/papers/IJCRT2505431.pdf> accessed 29 December 2025.

<sup>34</sup> G S Bajpai, *A Study of Hostility and Problems Associated with Witness* (Centre for Civil and Criminal Justice Administration, National Law Institute University Bhopal 2009) <https://bprd.nic.in/uploads/pdf/201608240419044682521Report.pdf> accessed 29 December 2025.

<sup>35</sup> David Mark Wyatt, *Accomplishing Technical and Investigative Expertise in Everyday Crime Scene Investigation* (PhD thesis, University of Exeter 2014) <https://core.ac.uk/download/pdf/43095394.pdf> accessed 29 December 2025.

## Conclusion

*Dagdu v. State of Maharashtra* remains a judicial cornerstone in reconciling the tension between the legal admissibility of accomplice testimony and the prudential necessity of corroboration. The decision resolves the apparent conflict between *Section 138* and *Illustration (b) of Section 119 of the BSA, 2023*, by affirming that while an accomplice is a competent witness whose uncorroborated testimony may legally sustain a conviction, judicial experience demands that such evidence ordinarily be acted upon only when supported by independent corroboration in material particulars.

The legislature's deliberate choice not to mandate statutory corroboration reflects an acknowledgment of institutional realities. Crimes involving conspiracy, secrecy, or ritual, such as those in *Dagdu*, often leave no traceable evidence beyond insider testimony. A rigid statutory rule could therefore allow the most dangerous offenders to escape punishment altogether. *Dagdu* illustrates how judicial interpretation consciously fills this legislative gap, preserving flexibility while imposing discipline through qualitative standards of corroboration.

At the same time, the case exposes the structural limits of the criminal justice system. The reliance on accomplice testimony is not merely a doctrinal choice but a trade-off between truth-seeking and institutional incapacity, particularly weak forensic infrastructure, inadequate scientific investigation, and overdependence on confession-based policing. Judicial insistence on corroboration compensates for these weaknesses, but it cannot eliminate the underlying risks of coercion, self-interest, and narrative fabrication inherent in accomplice evidence.

Viewed through a socio-legal lens, *Dagdu* underscores that judicial prudence functions as a corrective, not a cure. While courts can filter unreliable testimony through corroboration, lasting reform must focus upstream: improving investigative quality, strengthening forensic capacity, reducing custodial coercion, and shifting institutional incentives away from evidentiary shortcuts. Accomplice testimony, therefore, should remain an exceptional evidentiary tool regulated by caution, not convenience, until systemic deficiencies that necessitate its frequent use are meaningfully addressed.