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## DOCTRINE OF RES-GESTAE

**Anshul Trivedi**

Student, Indore Institute of Law, Indore, Madhya Pradesh, India

### ABSTRACT

*The paper unfolds a picture of the the Doctrine of Res-Gestae Which is enshrined under the Section – 6 of the Indian Evidence Act 1872. It explains specific reference to the English rule against hearsay in criminal proceedings under Common Law and the Indian Evidence Act, 1872. Mention of jurisdictions other than English Common Law and Indian law are for the purpose of reference only.*

**KEYWORDS:** *Common Law, evidence, hearsay rule, Indian Evidence Act*

### CHAPTER-I

#### METHODOLOGY

#### AIMS AND OBJECTIVES

The purposes of this study are as follows:

The aim of this paper is to investigate the manner in which the res gestae doctrine has been characterised under Common Law, and to trace its development as an exception to the exclusionary hearsay rule. It also seeks to evaluate the extent and nature of its import in the provisions of the Indian Evidence Act, 1872, and the manner in which it has been construed by the Indian Judiciary.

#### RESEARCH HYPOTHESES

- A Common Law Understanding of Res Gestae
- Defining Res Gestae as an Exception to the Hearsay Rule.
- The research project is entitled “Doctrine of Res-Gestae.”It explains the concept of things done which is an exception to hearsay rule in criminal proceedings and. It also shows the provisions that are relevant according to the Indian Evidence Act 1872.

#### RESEARCH METHODOLOGY

It is a doctoral research and its content search of secondary available data.

### RESEARCH QUESTIONS.

How has the Doctrine res-gestae been defined under Common Law and to what extent has it been utilised as an exception to the hearsay rule of evidence ?

Why is a strict interpretation of res gestae problematic and how did the Common Law courts overcome this difficulty while considering the relevance of admissible hearsay?

Has the Doctrine res gestae been effectively codified under the Criminal Justice Act of 2003? What are the implications of this construction?

### MODE OF CITATION

BLUE BOOK 19<sup>TH</sup> EDITION, LEGAL CITATION has been followed throughout the project.

### RESEARCH SCHEME

The present Research characterized into 6 Chapters.

#### Sources of Data

There have been used both primary and secondary sources as the foundation for the analysis presented in this paper. Primary sources include statutory and case law, while secondary sources include books and scholarly articles.

### CHAPTER- II

#### INTRODUCTION

The law of evidence which is basically deals with the law of procedure. It is stated as tool for the proving something. But these rules are not simply

understood with refer to what type of evidence is presented and proving in court of law. So, it means that some technical rules are working under law of evidence. It is most complicated area under the criminal jurisprudence.

The various provisions define the different portions of the law of procedure. Here one of them is principle of law of evidence is named as doctrine of res gestae defined under the various laws.

The main elements are relevancy and admissibility of the doctrine of res gestae in judicial proceedings. The relevancy is criteria for the admission of the evidence of doctrine of res gestae under the law. Admission is another important factor for the proper consideration of the weightage of all evidence. So, the doctrine of res gestae based on the assumption that every relevant part of the chain of event is consider before the final disposal by the judiciary as under criminal justice system. It is also indispensable for the proper evidence can be consider for proving the facts where the facts demanded some attention for the fulfill of the complete justice. No evidence can be discarded on the ground of irrelevant considerations even if some technicality is also present from case to case.

The Doctrine of the Res-Gestae has been excavated from the latin word the meaning of which is (Things Done) . it means that the parts or the acts or circumstances which are related or interconnected to the facts in issue or to a single transaction.

(**res gestae.** Things done; transactions; essential circumstances surrounding the subject. The circumstances, facts, and declarations which grow out of the main fact, are contemporaneous with it, and serve to illustrate its character. )<sup>1</sup>

*-Black's Law Dictionary*

In the Evidence Law it is regarded to the Statements or the words spoken that are so closely related to the facts in issue or are interconnected to the same transaction. Res-Gestae goes to all those statements or acts which helps in the building of the Actual facts of the case. It allows the admissibility of such statements that in the eyes of the court becomes material or emerges with proof of the facts and thus is considered as the exception to the Hearsay Rule of the EVIDENCE

Hearsay rule states the incapacibilities of the statements or the informations which ca be irrelevant as those being the secondary source of information talking about the facts in issue as could lead the investigation wrong way.

Res gestae doctrine is based on the belief that because of the certain statements which are made

naturally, spontaneously and without the deliberation during the course of an event, they leave a little room or probability for misunderstanding or the misinterpretation upon hearing by someone else secondary information about the fact in issue (i.e. by the witness who will later repeat the statement to the court) and thus the courts believe that such statements carry a high degree of credibility and its said to be admissible is on the discretion of the court itself.

**CHAPTER III**

**EVOLUTION AND DEVELOPMENT OF DOCTRINE OF RES- GESTAE.**

According to Wigmore, the doctrine began to find use in the early 1800's as a "convenient escape" from the hearsay rule and that it found "abundant support in the decided federal cases. As the hearsay doctrine was refined over the years, the concept of res gestae evolved into the hearsay exceptions that we now recognize as present sense impressions, excited utterances, and statements of then existing mental, emotional, or physical condition. The term has also been used to explain the admissibility of words that we now would refer to as verbal acts or verbal parts of acts.<sup>13</sup> The writers and, less frequently, the courts have criticized the use of the phrase, res gestae. However, in the last century the preponderant need has been for the expansion of the scope of admissibility. Predominantly the use of the phrase res gestae has been as a reason for admitting, not for excluding evidence.<sup>2</sup> Manifestly, too, the very vagueness of the term has been beneficial, as making it easier to widen the application of the doctrine into new fields. Perhaps the time has now come when this policy of widening admissibility will be even better served by striving for a clearer analysis .... If so, we could well jettison the ancient phrase, with due acknowledgement that it has well served its era in the evolution of evidence law.<sup>3</sup>

**Expansion of Doctrine of Res Gestae in Judicial Proceedings :**

The doctrine of res gestae is expanded in criminal law whereas it is precious for the proper application of the rules of law of evidence. Besides this meaning of the doctrine of res gestae is restricted in some other cases. No clear-cut parameters are lay down by the law. But in this context law simply says that facts, acts, declaration verbal or nonverbal acts can be considered only when the link of occurrence is established with some missing facts only that cases it applicable but not otherwise in all cases. So the settled law clearly stated that the Latin phrase defines as it

<sup>2</sup> Dean McCormick, "Res Gestae" 423supra note 3, § 274, at 587 ( Minnesota Law Review, Hein Online Vol. 65, Minn. L. Rev. 457, 1 ST edition 1980-1981)

<sup>3</sup> Black's Law Dictionary P. 1423 D Anglo Law Library Chicago

<sup>1</sup> [https://www.inbar.org/page/res\\_gestae](https://www.inbar.org/page/res_gestae)

depends upon on the certain criteria relating to direct or indirect nexus is established which means all the relevant facts, acts, declarations or verbal or nonverbal acts are connected with each other.

There is no separation is possible for the understanding of the events. It is connected with the facts in issue and as for as understanding of the chain of events with refer to whole incident. It means that no single act constitutes the whole events. It includes a lot of the facts which is related to each other in the ways of referred directly or indirectly. All the events can be considered as transaction which explained in the sense of any physical act or series of acts. Each part of the same transaction cannot be considered as relevant under criminal law. Transaction may have defined as the sequence of the events or all part of the incident which is systematically examined a whole and for the proper understanding not separated from as a single act.

The doctrine of res gestae was explained in R v. Bond. Evidence is necessarily admissible as to acts which are so closely and inextricably mixed up with the history of the guilty act itself as to form part of one chain of relevant circumstances, and so could not be excluded in the presentment of the case before the jury without the evidence being thereby rendered unintelligible.<sup>22</sup> The res gestae exception was first circumscribed definitively in the infamous decision of Cockburn C.J. in R v. Bedingfield This case shows the principal test to determine the admissibility of hearsay, that is, the spontaneity principle which tended to ignore the need for reliability, the overarching consideration. In this case, the victim made a statement implicating the accused just moments before her death. Unexpectedly, the court declared the narration of the statement inadmissible on the grounds that the transaction of the event was complete when

## CHAPTER V

### PROVISIONS RELATED TO DOCTRINE OF RES-GESTAE

#### 6. Relevancy of facts forming part of same transaction

Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

#### Illustrations

(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly or after it as to form part of the transaction, is a relevant fact.

(b) A is accused of waging war against the <sup>11</sup>[Government of India] by taking part in an armed insurrection in which property is destroyed troops are attacked and goals are broken open. The occurrence of these facts is relevant, as forming part of the general

transaction, though A may not have been present at all of them.<sup>4</sup>

- The test of admissibility on one hand relies on the exact contemporarily approach laid down in **Bedingfield's case** in contrast to the flexible and accommodating approach laid down in Foster's case.
- It was precisely with a view to settle this ambiguity that the Privy Council in **Ratten's case** entirely dispensed with the test of contemporaneity and adopted the test of "spontaneity and involvement".
- Lord Wilberforce in Ratten's case contended that the test should not be the uncertain one whether the making of the statement was in some sense part of the transaction. This may often be difficult to establish and therefore he emphasized on spontaneity as the basis of the test. He asserted that "hearsay evidence may be admitted if the statement providing it is made in such conditions of involvement or pressure as to exclude the possibility of concoction or distortion to the advantage of the maker or the disadvantage of the accused." Courts began focusing on how long the excited condition lasted rather than focusing on when the statement was made and thus liberalized the strict timing requirement. Apparently reluctant to explicitly follow Wigmore, judges first expanded the exception by categorizing statements as "contemporaneous enough.

The doctrine of res gestae was explained in **R v. Bond**.<sup>56</sup> Evidence is necessarily admissible as to acts which are so closely and inextricably mixed up with the history of the guilty act itself as to form part of one chain of relevant circumstances, and so could not be excluded in the presentment of the case before the jury without the evidence being thereby rendered unintelligible.

#### CONCLUSION & SUGGESTIONS

The doctrine of res gestae is examined under this work with the help of relevant authorities which is cited. So what is the important role of judiciary played as is under is main considerable aspect of this work. We can find out that the relevancy and admissibility is the prime factor as so important is decided by the courts.

<sup>4</sup> <http://www.advocatekhoj.com/index.php>

<sup>5</sup> 21906, 2 KB 389, at 400.

<sup>6</sup> <http://ijldai.thelawbrigade.com/wp-content/uploads/2017/09/Kuldeep-1.pdf>

Two elements contemporaneous and spontaneously are essential under the doctrine of res gestae. But it does not mean that this type of the requirements is also essential under law.

The various courts gave meaning as doctrine of res gestae according to facts and circumstances of each case but it is not necessary that it is also present in each and every case. The relevancy and admissibility of the doctrine of res gestae in judicial proceedings is considerable factor as examined under law. The doctrine of res gestae is not easy to understandable as in what sense it is applicable in criminal law prior with respect to historical evolution. Its meaning is expanded or restricted by the courts from time to time as according to facts and circumstances of each case but it does not mean that the doctrine of res gestae is expanded in unlimited or without restrictions of the provisions of the law.

The settled law clearly imposed the certain criteria before the application of doctrine of the res gestae in the criminal law. Like relevancy of the facts and forming part of the same transaction defines the what is the general meaning of the doctrine of res gestae.

This is the requirements of the doctrine of res gestae under the criminal law. But the adoption of the doctrine of res gestae is also based on the inclusion of certain principles for the proving the facts or relevant issue under the criminal law. The courts play an important role for the development of the doctrine of res gestate is under the criminal law as an independent exception to as an hearsay rule. So the term is interpreted as narrow or wide sense according to the basis of the relevant evidence from the case. Two cases are not similar so the doctrine of res gestae is not so equally applicable under law of evidence.

The distinction of the facts can be different approach for the decision of the case.

### **SUGGESTIONS:**

The doctrine of res gestate has no exact English translation because it is Latin phrase. So it means that things done, things said or things happened. But in some other words we can say that the facts, acts, declarations, verbal or nonverbal acts which is connected in any ways as directly or indirectly is not clear about the exactly the relevant meaning of the doctrine of res gestate. It is most complicated and confused term which creates rules within rules as not nothing more than else. This is also big loopholes of the doctrine of res gestae. It cannot clear the exact meaning of the doctrine of res gestae. So the firstly legislation should avoided the confusion of the term and clearly defines the term as what amounts to the doctrine of the res gestate. The provisions should be repealed or edited or alter added with new substitute the provisions as the meaning of the term of the res

gestae. If the uncertainty is removed only after that the considerable useful of the doctrine of res gestae is possible. The relevance significance with refer to present scenario is important if certain changes has been completed through law.