

FREE JUDICIARY CLASSES

BSA 2023

#9

FACT
FACT



Res-
judicata

BSA: 4 13 108

Res Gestae

BSA: S. 18

समान घटना

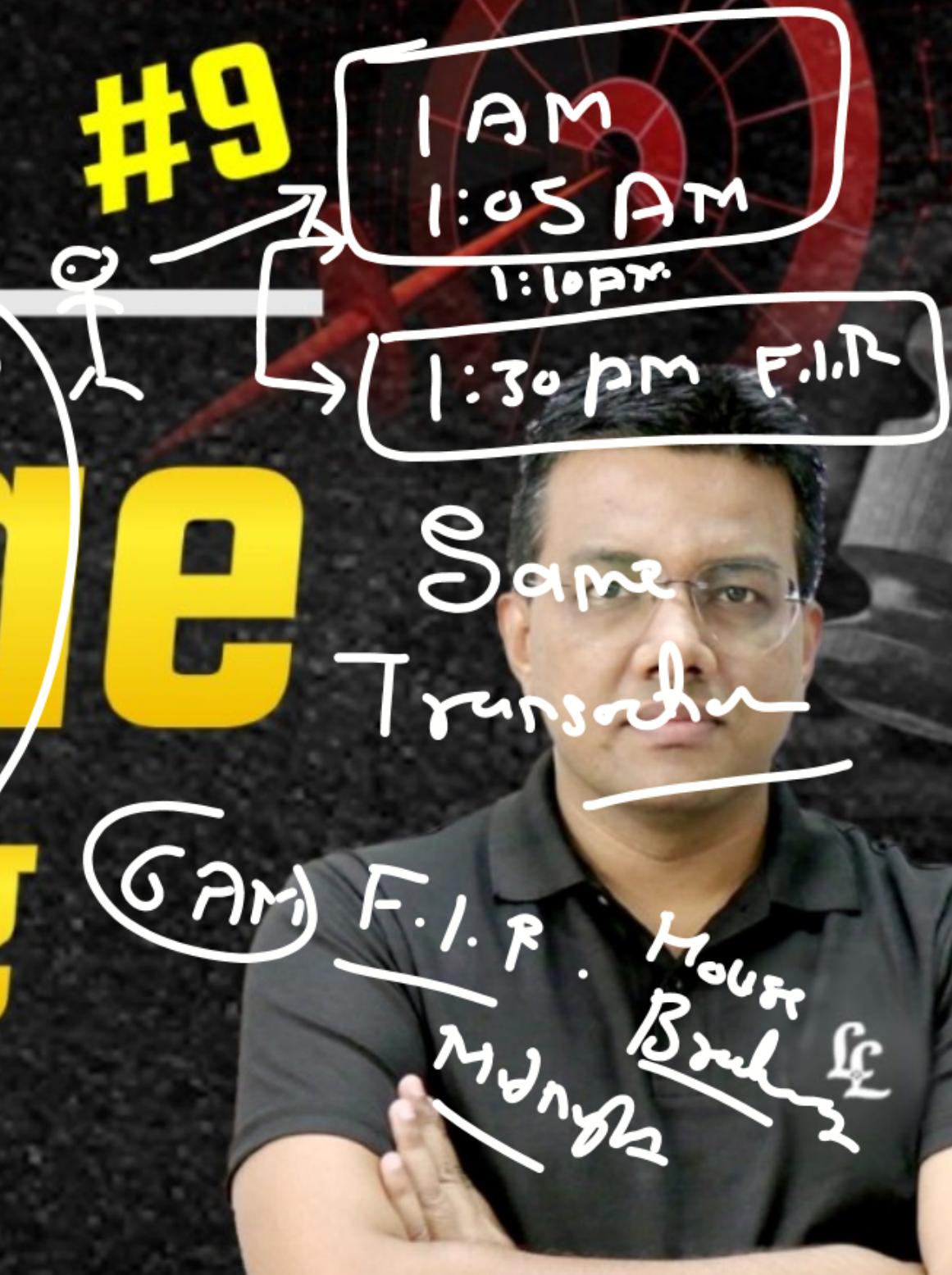
By Tansukh Paliwal

1 AM
1:05 AM
1:10 PM

1:30 PM F.I.R

Same
Transaction

6 AM F.I.R.
House
Break
MURK





PART II

CHAPTER II

RELEVANCY OF FACTS

3. Evidence may be given of facts in issue and relevant facts.

Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others.

Explanation. — This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

Bharatiya Sakshya Adhiniyam, 2023



Closely connected facts

4. Relevancy of facts forming part of same transaction.

Facts which (though not in issue) are so connected with a fact in issue or a relevant fact 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.

FACT

S.H

निकटता से संसक्त तथ्य

4. एक ही संव्यवहार के भाग होने वाले तथ्यों की सुसंगति ।

जो तथ्य विवाद्य न होते हुए भी किसी विवाद्यक तथ्य या सुसंगत तथ्य से इस प्रकार संसक्त है कि वे एक ही संव्यवहार के भाग हैं, वे तथ्य सुसंगत हैं, चाहे वे उसी समय और स्थान पर या विभिन्न समयों और स्थानों पर घटित हुए हों ।

Other
FACT

SAME TIME/PLACE

Same
Time

Different
Time/Place



- **Illustrations.**

- A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article. The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.*
- A is accused of fraudulently delivering to another person a counterfeit currency which, at the time when he delivered it, he knew to be counterfeit. The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit currency is relevant. The fact that A had been previously convicted of delivering to another person as genuine a counterfeit currency knowing it to be counterfeit is relevant.*
- A sues B for damage done by a dog of B's, which B knew to be ferocious. The fact that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.*

Bharatiya Sakshya Adhiniyam, 2023



13. Facts bearing on question whether act was accidental or intentional.

When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

Men Rea

Intention
Concurrence
RTB.

BNS S.18, BSA S.108

13. कार्य आकस्मिक या साशय था इस प्रश्न पर प्रकाश डालने वाले तथ्य।

जब कि प्रश्न यह है कि कार्य आकस्मिक या साशय था या किसी विशेष ज्ञान या आशय से किया गया था, तब यह तथ्य कि ऐसा कार्य समरूप घटनाओं की आवली का भाग था जिनमें से हर एक घटना के साथ वह कार्य करने वाला व्यक्ति सम्पूर्ण था, सुसंगत है।

Sec 4 ~ Sec 13

Same
Trans.

Similar
Trans.

BNS: S.18

LAWFUL ACT
V/S
Accident

BSA: S.108

Burden
(Exception)



- **Illustrations.**

- (a) *A is accused of burning down his house in order to obtain money for which it is insured. The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance company, are relevant, as tending to show that the fires were not accidental.*
- (b) *A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive. The question is, whether this false entry was accidental or intentional. The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.*
- (c) *A is accused of fraudulently delivering to B a counterfeit currency. The question is, whether the delivery of the currency was accidental. The facts that, soon before or soon after the delivery to B, A delivered counterfeit currency to C, D and E are relevant, as showing that the delivery to B was not accidental.*



- **दृष्टांत**

(क) क पर यह अभियोग है कि अपने गृह के बीमे का धन अभिप्राप्त करने के लिए उसने उसे जला दिया। ये तथ्य कि क कई गृहों में एक के पश्चात् दूसरे में रहा, जिनमें से हर एक का उसने बीमा कराया, जिनमें से हर एक में आग लगी और जिन अग्निकांडों में से हर एक के उपरान्त को किसी भिन्न बीमा कंपनी से बीमा धन मिला, इस नाते सुसंगत हैं कि उनसे यह दर्शित होता है कि वे अग्निकांड आकस्मिक नहीं थे।

(ख) ख के ऋणियों से धन प्राप्त करने के लिए क नियोजित है। क का यह कर्तव्य है कि बही में अपने द्वारा प्राप्त राशियां दर्शित करने वाली प्रविष्टियां करे। वह एक प्रविष्टि करता है जिससे यह दर्शित होता है कि किसी विशेष अवसर पर उसे वास्तव में प्राप्त राशि से कम राशि प्राप्त हुई। प्रश्न यह है कि क्या यह मिथ्या प्रविष्टि आकस्मिक थी या साशय। ये तथ्य कि उसी बही में क द्वारा की हुई अन्य प्रविष्टियां मिथ्या हैं और कि हर एक अवस्था में मिथ्या प्रविष्टि क के पक्ष में है, सुसंगत है।

(ग) ख को कपटपूर्वक कूटकृत करेंसी का परिदान करने का क अभियुक्त है। प्रश्न यह है कि क्या करेंसी का परिदान आकस्मिक था। यह तथ्य कि ख को परिदान के तुरन्त पहले या पीछे क ने ग, घ और ड को कूटकृत करेंसी का परिदान किया था इस नाते सुसंगत हैं कि उनसे यह दर्शित होता है कि ख को किया गया परिदान आकस्मिक नहीं था।



14. Existence of course of business when relevant.

When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

- ***Illustrations.***
 - (a) *The question is, whether a particular letter was dispatched. The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that particular letter was put in that place are relevant.*
 - (b) *The question is, whether a particular letter reached A. The facts that it was posted in due course, and was not returned through the Return Letter Office, are relevant.*