

# ***CHARACTER EVIDENCE:***

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Character is a combination of the peculiar qualities impressed by nature or by habit of the person, which distinguish him from others. Character means the collective qualities or characteristics especially mental and moral, that distinguish a person or thing. Character is the estimation of a person by his community.

**The word 'character' includes both reputation and disposition." Character lies in the man; it is the mark of what he is.**

## **REPUTATION:-**

Reputation means to be good name; the credit, honour or character which is derived from a favourable public opinion or esteem, and character by report. Reputation is the common or general estimate of a person with respect to character or other qualities.

Woodroffe states that "Reputation means what is thought of a person by others and is constituted by public opinion. It is the general credit which a man has obtained in that opinion."

Reputation and character are not synonymous terms. Character is what a man or a woman is morally while reputation is what he or she is reputed to be i.e. reputation is the estimate which the community has of the person's character.

## **DISPOSITION:**

Disposition is a natural tendency, an inclination; a person's temperament. It is the prevailing spirit of mind,

resulting from constitution. It is the aptitude or tendency of character.

The word 'disposition' is used to give the meaning a tendency to act, think or feel in a particular way. Character certificate given by the employer or character certificate given by the Heads of the Educational Institutions are the good examples of 'Disposition'. 'Disposition' comprehends or springs and motives of action. It is a permanent, settled and respects the whole frame and texture of the mind.

The disposition is the prevailing spirit of mind, resulting from constitution. It is the aptitude or tendency of character. Character is often used in the sense of the social estimate formed of a man, his reputation for good or bad.

## **DIFFERECCE BETWEEN REPUTATION AND DISPOSITION**

i) Reputation means the general credit of the person among the public but disposition means the inherent qualities of a person.

ii) Reputation is what other people think about him while disposition is what he is in reality.

iii) A man may be reputed to be a good man but in reality he may have a bad disposition.

iv) General reputation is a sort of common adjective to all, while disposition of a man may depend upon many traits, some good and some bad.

As character includes both reputation as well as disposition, character means the general credit of the person in the estimation of others plus the nature and inherent qualities of a person. But disposition of a person can be known only to those persons who are closer to him. A person may have very high reputation but his disposition may be very bad.

"Character is a combination of quality distinguishing a person, the individuality of which is the product of nature, habits and environment." "Is a man honest, is he good-natured, is he of violent temper, is he modest and retiring or imprudent forward — These all constitute traits of character."

## **ADMISSIBILITY OF CHARACTER EVIDENCE IN CIVIL SUITS IN INDIAN LAW**

**In civil action**, as a general rule, evidence of character of any person concerned (a party to a suit) is not admissible for the purpose of raising an inference as to his conduct. In other words, that a party did or did not act may not be established in civil actions, by showing that his character is such as to predispose him to one course or to the other. So the exclusion of evidence of a character of a party as a basis of inference as to his conduct is practically absolute in civil cases. In civil cases the evidence of character is generally inadmissible unless the character is of the substance in issue.

Under Section 52 the expression 'the character of any person concerned' is used. Therefore, it may appear to

include persons who are called as witnesses, but the content of the section refers, only to the parties of the proceedings.

### **CHARACTER ADMISSIBLE IN CIVIL CASES:**

There are certain cases in which character is a fact in issue or a relevant fact e.g. in a suit for libel, if the libel consisted in attributing bad qualities to the plaintiff and the defendant justifies the existence of these qualities, the existence of these qualities would be a fact in issue and evidence of character may be led. The character of a female chastity has been received in evidence in action for breach of promise for marriage.

Best states that "To admit character evidence in every case, or to reject it in every case, would be equally fatal to justice; that to draw a line or to define with precision where it ought to be received and where it ought to be rejected, is as embarrassing a problem as any Legislature can be called upon to solve."

In **Abdul Shakur and others v. Kotwaleswar Prasad and others**, it has been held that where the contention that certain pronotes had been obtained from the insolvent while he was under the influence of drink, has been found to be baseless, mere general bad character of the insolvent would be quite irrelevant in a civil case to prove want of consideration.

### **ADMISSIBILITY OF CHARACTER EVIDENCE IN CRIMINAL SUITS IN INDIAN LAW**

In criminal proceedings, previous good character is relevant:-

In criminal proceedings, the fact that the person accused is of a good character, is relevant." In criminal enquiries the relevancy of character evidence is different from civil cases.

In criminal cases, the accused is allowed to prove his good character, either in chief or by cross-examination. But so far as concerns proof of the accused's good character by another witness, what must be deposed to is, not particular good acts by him, but his general reputation in the community. Strictly the witness's own opinion of his character is irrelevant, but in particular considerable latitude is allowed and a witness is often asked to say what he knows of the accused's character. The evidence of character is primarily relevant as to credibility i.e. it makes his testimony more worthy of belief.

Good character in criminal cases is a weak evidence. However, in certain cases, good character may become favourable evidence in favour of an accused in doubtful cases and where the prosecution fails to prove the guilt of the accused beyond the reasonable doubts. Good character presumably includes good reputation which a man may be in his own circle as well as his real disposition as distinct from what his friends and neighbours may think of him.

When the accused in a bribery case pleads and produces evidences of good character, which the Court regards as satisfactory, it must be taken in consideration to decide

whether the guilt is proved beyond reasonable doubt Phipson states that "Good character is not a defence, for no one would then be convicted, as everyone starts with a good character. The defendant is, however, entitled to rely on the fact that he is of previous good character as making it less likely that he would have committed the offence. If there is any room of doubt, his good character may be thrown in the scales in his favour."

In **Habeeb Mohammad v. State of Hyderabad, [AIR 1954 SC 51]** it has been held that in criminal proceedings a man's character is often a matter of importance in explaining his conduct and in judging his innocence or criminality. Many acts of an accused person would be suspicious or free from all suspicions when the character of the person by whom they are done is known. Even on the question of punishment, an accused is allowed to prove general good character.

### **BAR ON THE PROOF OF PREVIOUS BAD CHARACTER IN CRIMINAL PROCEEDINGS:**

The general evidence of good character of the accused is always relevant. This is not so with regard to general evidence of bad character. In criminal proceeding the fact that the accused person has a bad character is irrelevant and cannot be proved. The reason is that the prosecution must prove the guilt of accused with the necessary evidence in support of the charge. But the prosecution cannot take the help of bad character of the accused in order to establish its case. If the prosecution is allowed to prove bad character of the accused, then that would prejudice the mind of the Court. It makes the Court biased against the accused. if evidence of bad character

of the accused is permitted to be proved the Court may come to the conclusion that he has committed the offence in question. Therefore, this would prejudice the fair trial to which the accused is entitled. However, there are three exceptions to the rule of the irrelevance of bad character in criminal cases.

**The first exception:** The previous bad character is relevant in reply, if the evidence has been given that he has good character. In Indian system of Law, an accused starts with a presumption of innocence; his bad character is not relevant, unless he gives evidence of good character in which case, by way of rebuttal, evidence of bad character may be adduced. The prosecution gets the right to prove the bad character of the accused. In cases of defamation, malicious prosecution etc., the question of reputation is to be considered. In such cases, the bad character of the party may be adduced as evidence.

**The second exception:** The evidence of bad character can be proved in cases in which the bad character is in issue. In case of binding over proceedings for keeping good behaviour under Sections 109, and 110, Cr.P.C. and in proceedings for the offence of dacoity under Sections 400, 401, Indian Penal Code. the bad character of the person involved would be a fact in issue. Under Section 110, Cr.P.C.. a person is to be bound down if he is by habit a robber. a house-breaker or is so desperate and dangerous as to render his being at large hazardous. In an Inquiry under Section 110 Cr.P.C. the very character of the accused is in question and so the evidence to that effect is admissible. The evidence that the accused had committed similar criminal acts previously is admissible upon the issue to decide whether the act was intentional

or accidental. If the evidence of bad character is introduced in order to establish a relevant fact which cannot be proved separately the evidence of bad character is admissible.

## **DEFENDANT'S BAD CHARACTER IN CRIMINAL SUITS**

In criminal proceedings evidence of the defendant's bad character is admissible (1) if, but only if—

- (a) all parties to the proceedings agree to the evidence being admissible,
- (b) the evidence is adduced by the defendant himself or is given in answer to a question asked by him in cross-examination and intended to elicit it,
- (c) it is important explanatory evidence,
- (d) it is relevant to an important matter in issue between the defendant and the prosecution,
- (e) it has substantial probative value in relation to an important matter in issue between the defendant and a co-defendant,
- (f) it is evidence to correct a false impression given by the defendant, or
- (g) the defendant has made an attack on another person's character.

Defendant bad character evidence can be admitted with the agreement of 'all parties to the proceedings'. For practical purposes, in most situations, this will be contingent on the accused person wishing to adduce it, although, presumably, there might be exceptional



circumstances in which a co-accused might object to its admission.

R v Beverley , the defendant was accused of participating in a conspiracy to import cocaine. He had two previous convictions. One of these, from more than five years earlier, was for possession of cannabis with intent to supply, and one was from two years previously, for simple possession of cannabis. These were adduced at trial under s. 101(1)(d), as showing a propensity to commit the type of offence with which he was charged. However, on appeal, the conviction was quashed, on the basis that one of the convictions was old, and one was of a different character (simple possession), that they involved a different type of drug, and related to offences of a vastly lesser degree of seriousness, both in size and complexity, to the large-scale conspiracy charged in the instant case.

# **CONCLUSION**

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The general rule is that character evidence is inadmissible. Since it is very difficult to assess the character of the person, evidence of character is rendered inadmissible.