

Res Gestae under the Bharatiya Sakshya Adhiniyam, 2023 (BSA)

Statutory Provision

Under the Bharatiya Sakshya Adhiniyam, 2023, the doctrine of Res Gestae is incorporated under Section 4 – Facts which form part of the same transaction. This corresponds to Section 6 of the Indian Evidence Act, 1872.

Principle: Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant.

Meaning of Res Gestae

The term Res Gestae means 'things done' or 'things forming part of the transaction.' It is an exception to the rule against hearsay evidence.

Normally, hearsay is inadmissible. However, statements forming part of the same transaction are admissible because they are spontaneous, contemporaneous, and not premeditated.

Essential Ingredients under Section 4 BSA

1. There must be a fact in issue.
2. The statement/fact must be connected with the transaction.
3. It must form part of the same transaction.
4. There must be proximity in time, place and continuity.
5. It must be spontaneous and not fabricated.

Same Transaction – Judicial Tests

Courts determine 'same transaction' case by case considering:

- Proximity of time
- Proximity of place
- Continuity of action
- Unity of purpose
- Causal relation

Types of Facts Covered

1. Spontaneous statements during occurrence.
2. Statements immediately before or after occurrence.
3. Physical acts and conduct explaining the event.
4. Exclamations and cries.

Illustrations

Illustration 1: A shoots B. B immediately shouts 'A has shot me!' – Admissible.

Illustration 2: Kidnapping victim screams 'They are taking me away!' – Admissible.

Illustration 3: After 2 hours victim narrates incident to neighbour – Not admissible.

Important Case Laws

1. R v Bedingfield (1879) – Statement must be contemporaneous.
2. Sukhar v State of Uttar Pradesh (1999) – Immediate statement admissible.
3. Gentela Vijayavardhan Rao v State of Andhra Pradesh (1996) – Continuity and proximity test.
4. Ratten v R (1971) – Telephone call admissible as part of transaction.

Relation with Hearsay Rule

General Rule: Hearsay inadmissible.

Exception: Res Gestae admissible due to spontaneity and reliability.

Limitations

1. Must be immediate.
2. No break in continuity.
3. Not a narrative of past event.
4. No time for fabrication.

Conclusion

Res Gestae under Section 4 BSA is a crucial exception to the hearsay rule. It allows admission of statements and facts so connected with the fact in issue as to form part of the same transaction. Courts emphasize spontaneity, proximity, and continuity as essential tests.