

The golden rule of criminal jurisprudence

[Law](#), [Crime](#)



The golden rule that runs through the web of criminal jurisprudence is that ‘the accused is presumed to be innocent until the guilt is proved’. The onerous responsibility to prove all the ingredients of an offence rests upon the prosecution. If the prosecution has not proved the guilt according to the standards of proof, there arises a reasonable doubt and the accused gets benefit of acquittal.

However, this is not a immutable principle. Exceptions enumerated under sec 105 and sec 106 place a part of burden of proof on the accused to prove facts which are within his knowledge. Sec 113-A of the evidence act raises a presumption as to abetment of suicide by a married woman by her husband or his relatives. Similarly, sec 114-A raises presumption of absence of consent in a rape cases. The evidential burden is on accused.[1]

The said rule does not reduce the burden on the prosecution to prove that the accused has committed the offence beyond the reasonable standards. The legal presumption under sec 105 with the words “ the court shall presume the absence of such circumstances” is not intended to displace the aforesaid traditional burden of the prosecution. It is only where the prosecution has proved its case with reasonable certainty that court can depend upon the presumptions regarding absence of circumstances falling under any of the exceptions. the presumptions helps the court to determine the on whom is the burden to prove facts necessary to attract the exception. Unlike the prosecution, the accused can be discharged the burden of proof based on the ‘ preponderance of probabilities’ [2]

It is also equally well settled principle that suspicion however strong cannot take place of proof. There is indeed a difference between ‘accused may have committed the crime’ and ‘accused must have committed the crime’. This evidential burden is on the prosecution to prove the guilt by adducing the reliable and cogent evidence. Presumption of innocence has also been recognised as an important human right which cannot be disregarded in Indian criminal jurisprudence as well as human rights perspective.[3]

The same concept has been reiterated in the decision by the supreme court as “Every accused is presumed to be innocent unless his guilt is proved. The presumption of innocence is a human right subject to statutory exceptions, the said principle forms the basis of criminal jurisprudence in India”[4]

P. N. Krishna Lal v. nGovt. of Kerala, 1995Supp (2)S. C. C. 187.

Periasami v. State of Tamilnadu(1996)6 SCC 457.

Narendra Singh v. State of M. P (2004) 10 SCC 699.

Ganesan v. Rama Raghuraman, (2011) 2 SCC 83