

# [It found that there is no indication that](https://assignbuster.com/it-found-that-there-is-no-indication-that/)

It is a sound rule in practice not to act on the uncorroborated evidence of a child, but this is a rule of prudence, and not of law. (Mohamed Sugal Esa v. The King, A. I. R.

1964 P. C. 3) Dealing with the competency of a child witness, the Gauhati High Court has held that a child who is 12 years of age can be a competent witness with an intellectual capacity and capability of giving a rational account or what he has seen or heard. (Musst. Jarina Khatun v. State of Assam, 1992 Cri.

L. J. 733) In the above case, the Court also observed that there is no general rule that the evidence of a child witness cannot, under any circumstances, be acted upon without corroboration of a direct nature.

Interested persons as witnesses: The High Court of Jammu & Kashmir has held that, although a witness may be interested in the well-being of the person who produces him, if on scrutiny, it is found that there is no indication that the depositions were given because of such interest; such depositions need not necessarily be disbelieved. If, for instance, a witness is a relative of the person who produces him, his statement cannot be discarded only for that reason unless, it is shown that the statement is a tainted one and was given only to benefit the person producing him. (Union of India v. Savita Sharma, A. I. R.

1979 J. & K. 6) No particular number of witnesses is, in any case, required for the proof of any fact. (S. 134) In the olden days, the emphasis seemed to be on quantity rather than quality. As observed by Gibbon in his “ Decline and fall of the Roman Empire,”— “ The prophet published a law of domestic peace, that no woman should be condemned unless four male witnesses had seen her in the act of adultery.” S.

134 of the Indian Evidence Act enacts that no particular number of witnesses are required for the proof of any fact. Thus, more importance is attached to the quality than to the quantity of the evidence; testimony is weighed, not counted. A finding may be based on the testimony of a single witness. This rule applies both to civil and criminal cases. Thus, a conviction may even be based on an uncorroborated testimony of a single witness.

However, instances of convictions for capital offences on the testimony of a solitary witness are rare, and are to be found in exceptional circumstances. The Orissa High Court has reiterated, in a murder case, that what is material is the acceptability of evidence, and not the numerological sufficiency of witnesses. It was held that a conviction can be maintained even on the basis of a sole, reliable witness. (Kedar Behera v.

The State, 1993 Cri. L. J. 378) The Supreme Court has in Vadivelu Thevar v. State of Madras (A. I. R.

1957 SC 614), laid down the following three principles in connection with convicting an accused on the testimony of a sole witness: (a) As a general rule, a Court may — even in cases of murder — act on the testimony of a single witness, though uncorroborated. One credible witness outweighs the testimony of a number of witnesses of indifferent character. (b) Unless corroboration is insisted upon by statute, Courts should not insist on corroboration – except in cases where the nature of the testimony itself of the single witness requires such corroboration as a rule of prudence, as for instance, in the case of a child witness.

(c) Whether corroboration of the testimony of a sole witness is or is not necessary must depend on the facts and circumstances of each case, and no general rule can be laid down in this connection. The “ Unus Nullus Rule” of English Law, that one is equal to none, has thus been rejected by S. 134. However, even in England, this rule is applied only in certain classes of cases, as for instance, in cases of perjury and treason, where at least two witnesses are required. On the other hand, despite the universal nature of the provisions of S.

134, there are certain classes of cases where the Courts in India have followed the English unus nullus rule as a rule of caution and prudence, as for example, cases of perjury and cases involving sexual offences. As far as sexual offences are concerned, the general trend of the Courts is to require corroboration in the case of a grown-up woman, though not necessarily in the case of a child of tender years. However, the Privy Council has cautioned that as a matter of prudence, conviction should not ordinarily be based on the uncorroborated evidence of a child witness. As regards divorce cases, the general practice of the English Courts, which is also now well-established in India, is to hold that the evidence of the husband or the wife alone is never to be accepted without corroboration either by witnesses or at least by strong surrounding circumstances.

In all civil proceedings, the parties to the suit, and the husband or wife or any party to the suit, are competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, is a competent witness. (S.

120) An accomplice is a competent witness against an accused person, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. (S. 133)