

RECONCILING VICTIM-CENTRIC LEGISLATION WITH ACCUSED-CENTRIC SAFEGUARDS - A CRITICAL LEGAL STUDY OF REVERSE BURDEN OF PROOF UNDER INDIAN CRIMINAL LAW

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ABSTRACT

The principle of presumption of innocence forms the cornerstone of criminal jurisprudence, ensuring that prosecution bears the burden of proving guilt beyond reasonable doubt. However, the emergence of victim-centric criminal legislation in India has increasingly introduced provisions that shift the burden of proof onto the accused, commonly referred to as the reverse burden of proof. Such legislative departures are often justified on grounds of addressing systemic barriers faced by victims, particularly in offences involving sexual violence, dowry deaths, narcotics, corruption, and terrorism. Statutes, such as Protection of Children from Sexual Offences Act, 2012 (POCSO), the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS), and provisions under the Indian Evidence Act, 1872 (being replaced by Bharatiya Sakshya Adhiniyam, 2023) reflect this trend. This research examines the constitutional and jurisprudential tensions arising from reverse burden clauses. While these provisions aim to strengthen victim protection and ensure effective prosecution of grave offences, they simultaneously raise concerns regarding the accused's right to fair trial under Art. 21 of the Indian Constitution & due process requirements embedded within Indian criminal law. Judicial pronouncements have attempted to reconcile this conflict by interpreting reverse burden provisions narrowly and requiring the prosecution to first establish foundational facts before the burden shifts. Landmark rulings illustrated the judiciary's cautious approach in balancing societal interest with individual liberties. This research adopts a doctrinal and analytical methodology to evaluate whether reverse burden provisions represent a necessary evolution in criminal justice or an erosion of fundamental safeguards. It argues that while victim-centric reforms are essential, they must operate within constitutional limits, ensuring proportionality, procedural fairness, and continued adherence to the presumption of innocence.

Keywords: Reverse Burden of Proof, Presumption of Innocence, Fair Trial, Article 21, Victim-Centric Criminal Law, Accused Rights, Statutory Presumptions, Foundational Facts

BACKGROUND

Criminal law in India, rooted in the adversarial system, has traditionally placed the burden of proof on the prosecution. This principle flows directly from the maxim *ei incumbit probatio qui dicit, non qui negat*, the burden lies upon the one who asserts, not upon one who denies. The presumption of innocence is not merely a procedural norm, but a substantive human right recognised globally, including under Art. 14(2) of the International Covenant on Civil and Political Rights (Zhang, 2009).

Indian courts have consistently reaffirmed that the prosecution must prove guilt beyond reasonable doubt. The classic formulation of this rule was articulated in *Woolmington v. Director of Public Prosecutions* (1935 AC 462), where the House of Lords described the presumption of innocence as the “golden thread” running through criminal law. Indian constitutional jurisprudence has similarly integrated this principle into Art. 21, which guarantees life and personal liberty.

However, over the last few decades, India has witnessed an increasing legislative shift towards victim-centric criminal justice. In response to grave social problems such as dowry deaths, sexual violence, narcotics trafficking, and terrorism, Parliament has enacted laws that incorporate statutory presumptions and reverse burden clauses. These provisions require the accused to disprove certain facts or explain circumstances once the prosecution establishes a *prima facie* case (Stephan, 1979).

This development raises an important jurisprudential concern, whether victim-oriented criminal reforms can coexist harmoniously with accused-centric safeguards such as the presumption of innocence & right to a fair trial. This research seeks to critically analyze reverse burden provisions under Indian criminal law and examine the constitutional and judicial attempts to reconcile these competing interests.

BURDEN OF PROOF IN INDIAN CRIMINAL JURISPRUDENCE

The general rule in criminal trials is that the burden of proof lies in the prosecution. Sec. 101 of the Indian Evidence Act, 1872 provides that whoever desires a court to give judgment as to any legal right or liability dependent on facts asserted must prove those facts. This reflects the foundational structure of adversarial criminal justice, where the State must establish guilt beyond reasonable doubt. The Supreme Court has repeatedly emphasized that criminal conviction cannot rest upon suspicion or probability. In *Kali Ram v. State of Himachal Pradesh* ((1973) 2 SCC 808), the Court held that if two views are possible, the one favoring the accused must be adopted. This rule protects individuals against wrongful conviction and reinforces the presumption of innocence as a central safeguard.

Thus, the burden of prosecution is not merely procedural but forms part of the substantive guarantee of fairness within criminal adjudication. Reverse burden clauses represent statutory exceptions to the traditional rule. These provisions operate through presumptions, requiring the accused to rebut guilt or disprove certain elements once specific foundational facts are shown by the prosecution. Such clauses are increasingly found in special criminal legislations dealing with offences that are considered socially grave or evidentially complex (“7. Quantum and Burden of Proof”, 1978).

For instance, Section 113A and Section 113B of the Indian Evidence Act introduce presumptions in cases of suicide by married women and dowry deaths. Similarly, Section 35 of the NDPS Act presumes culpable mental state, while Section 29 of the POCSO Act presumes guilt of the accused once the prosecution proves the occurrence of the offence. The legislative rationale behind these provisions is grounded in the belief that certain crimes occur in private spaces, involve vulnerable victims, or present significant barriers to direct evidence. Reverse burden provisions are therefore viewed as mechanisms to strengthen prosecution and enhance deterrence.

Nevertheless, these provisions also mark a significant departure from the orthodox criminal law principle that it is always for the State to prove guilt. India's criminal justice reforms increasingly reflect a victim-centric orientation. This shift has been particularly visible in laws dealing with sexual violence, domestic cruelty, child abuse, and organized crime. The objective is to ensure that offenders do not escape accountability due to systemic disadvantages faced by victims, such as stigma, intimidation, or lack of access to resources (Duncan, 1989).

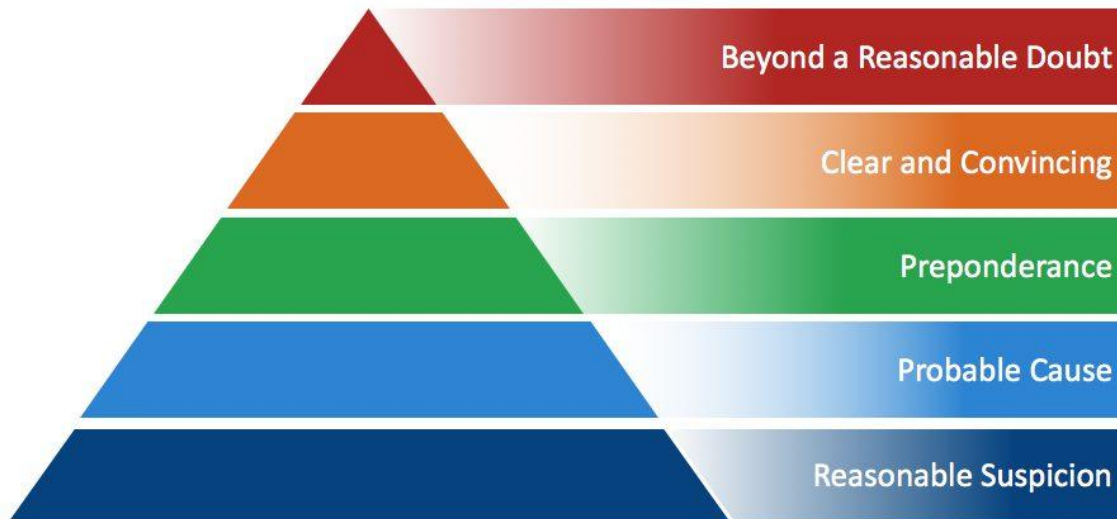
The Supreme Court in *State of Punjab v. Gurmit Singh* ((1996) 2 SCC 384) acknowledged that victims of sexual offences undergo severe psychological trauma and that courts must not adopt approaches that further burden them. Similarly, dowry death provisions were enacted because domestic cruelty often occurs within the confines of the home, making independent evidence difficult to secure. Thus, victim-centric legislation has increasingly relied on presumptions and burden-shifting devices as tools to secure justice for vulnerable groups. Despite their protective intent, reverse burden provisions raise serious constitutional concerns. The presumption of innocence has been recognised as a human right, and any deviation must satisfy the test of fairness, proportionality, and reasonableness.

In *Noor Aga v. State of Punjab* ((2008) 16 SCC 417), the Supreme Court held that reverse burden clauses must be construed strictly because they impose an onerous responsibility on the accused. The Court observed that such provisions cannot be applied mechanically and that foundational facts must first be established beyond reasonable doubt.

Similarly, Art. 21's guarantee of personal liberty has been interpreted to include the right to fair trial. In *Maneka Gandhi v. Union of India* ((1978) 1 SCC 248), the Court held that procedure established by law must be fair, just, and reasonable. Reverse burden provisions risk undermining this requirement by compelling the accused into a defensive position even before the prosecution fully proves its case.

Court in *V. D. Jhingan v. State of Uttar Pradesh* (AIR 1966 SC 1762) clarified that statutory presumptions do not absolve the prosecution of its initial duty. The prosecution must first establish a prima facie case, after which the burden may shift. Reverse burden provisions reflect India's evolving victim-centric criminal policy, aimed at addressing evidentiary challenges in serious offences. However, they simultaneously challenge the accused's constitutional protections, particularly the presumption of innocence & right to a fair trial. The judiciary has attempted to maintain equilibrium by interpreting such provisions narrowly and insisting upon strict prosecutorial compliance with foundational requirements.

The tension between victim justice and accused safeguards therefore remains one of the most critical debates in contemporary Indian criminal jurisprudence.



Source - (Verghese Summersat, n.d.)

REVERSE BURDEN OF PROOF UNDER DOWRY DEATH AND DOMESTIC CRUELTY JURISPRUDENCE

One of the earliest and most significant incorporations of reverse burden principles in Indian criminal law emerged in the context of dowry-related violence. Dowry deaths represent a distinct category of crime that occurs largely within the private sphere of the matrimonial home, often leaving little direct evidence available to the prosecution. Recognizing this difficulty, Parliament introduced specific presumptions under the Indian Evidence Act, 1872, shifting part of the evidentiary burden onto the accused once certain foundational facts are established.

The incorporation of Sections 113A and 113B into the Evidence Act reflects a legislative acknowledgement that traditional prosecution-centric burdens may be inadequate in addressing systemic domestic violence. These provisions aim to strengthen victim protection and ensure that perpetrators do not evade conviction due to evidentiary gaps (Azizah et. al., 2023).

Section 113A of the Indian Evidence Act creates a presumption of abetment of suicide by a married woman if she commits suicide within seven years of marriage and it is shown that her husband or his relatives subjected her to cruelty. This provision marks a departure from the general rule, as it permits courts to presume culpability based on circumstantial domestic cruelty.

The Supreme Court has clarified that this presumption is discretionary rather than mandatory. In *Gurcharan Singh v. State of Punjab* ((2017) 1 SCC 433), the Court held that the presumption under Section 113A cannot be applied mechanically and must depend upon the overall factual matrix. The Court emphasized that cruelty alone does not automatically establish abetment unless there is a proximate link between cruelty & suicide.

Similarly, in *Ramesh Kumar v. State of Chhattisgarh* ((2001) 9 SCC 618), the Court observed that abetment requires active involvement or instigation, and mere harassment without evidence of direct encouragement may not suffice. This judicial approach demonstrates that while victim-centric presumptions exist, courts continue to safeguard the accused against automatic attribution of guilt. Thus, Section 113A reflects an attempt to balance the victim's vulnerability within domestic spaces with the constitutional requirement that guilt must not be presumed without sufficient proximity and proof.

PRESUMPTION OF DOWRY DEATH UNDER SECTION 113B

Section 113B of the Evidence Act operates in conjunction with Section 304B of the Indian Penal Code. It provides that when a woman dies under unnatural circumstances within seven years of marriage, and it is shown that she was subjected to cruelty or harassment "soon before her death" in connection with dowry demands, the court shall presume that the accused caused the dowry death (Rustogi, 2009).

Unlike Section 113A, Section 113B uses mandatory language, thereby placing a stronger reverse burden upon the accused. However, judicial interpretation has consistently insisted that the prosecution must first establish foundational facts beyond reasonable doubt before the presumption can arise. In *Kans Raj v. State of Punjab* ((2000) 5 SCC 207), the Supreme Court held that dowry death provisions were enacted to combat a serious social menace, but courts must ensure that innocent relatives are not roped in through vague allegations. The Court emphasised the necessity of proving cruelty linked specifically to dowry demands.

Further, in *Baijnath v. State of Madhya Pradesh* ((2017) 1 SCC 101), the Court clarified that the presumption under Section 113B is not automatic upon the death of a married woman. The prosecution must prove that harassment occurred "soon before death" and that it had a nexus with dowry demands. Only then does the burden shift to the accused.

The phrase "soon before" has been a subject of judicial scrutiny. In *Sher Singh v. State of Haryana* ((2015) 3 SCC 724), the Court held that "soon before" does not mean immediately before, but there must be a proximate and live link between the cruelty & death. This interpretation prevents the presumption from becoming overly broad or unjust. Thus, while Section 113B is victim-centric in intent, judicial safeguards ensure that it does not become a tool of unreasoned conviction.

REVERSE BURDEN AND THE RISK OF MISUSE

Although dowry death presumptions were introduced as protective mechanisms, concerns have also been raised regarding their misuse and overextension. The reverse burden framework can sometimes lead to a presumption-driven prosecution where the accused is compelled to prove innocence, thereby undermining the presumption of innocence. The Supreme Court has repeatedly cautioned against indiscriminate implication of the husband's relatives in dowry death and cruelty cases. In *Preeti Gupta v. State of Jharkhand* ((2010) 7 SCC 667), the Court noted that exaggerated allegations against extended family members have become a growing concern, requiring courts to exercise caution (Ke, 2017).

Similarly, in *Arnesh Kumar v. State of Bihar* ((2014) 8 SCC 273), although dealing with Section 498A IPC, the Court highlighted the misuse of dowry-related provisions leading to arbitrary arrests and harassment of the accused. The judgment laid down guidelines to prevent unnecessary deprivation of liberty, reinforcing that victim-centric laws must still operate within constitutional discipline.

These decisions illustrate that reverse burden clauses, while enacted for victim protection, can create an imbalance if applied without judicial restraint. The risk lies in transforming rebuttable presumptions into de facto conclusions of guilt. The dowry death jurisprudence reflects one of the clearest examples of the Indian legal system's struggle to reconcile victim justice with accused safeguards. On one hand, dowry deaths occur in environments where victims are silenced, and evidence is controlled by the accused's household. On the other hand, reversing the burden too aggressively risks violating Art. 21's fair trial guarantee (Bronstein, 2020).

The Supreme Court has attempted reconciliation by adopting a two-step approach. First, the prosecution must prove foundational facts such as unnatural death, cruelty, and dowry-linked harassment soon before death. Second, only upon this threshold does the presumption operate, allowing the accused to rebut it on the standard of preponderance of probabilities. This framework ensures that reverse burden clauses do not entirely dismantle the prosecution's duty but rather operate as supplementary mechanisms in structurally difficult crimes.

Reverse burden provisions in dowry death and suicide cases represent an early legislative shift towards victim-centric criminal law. These presumptions were introduced as responses to social realities where domestic violence remains hidden and prosecution faces evidentiary disadvantages. However, judicial interpretation has played a critical role in preventing these presumptions from becoming unconstitutional shortcuts. Through decisions such as *Baijnath v. State of Madhya Pradesh* ((2017) 1 SCC 101) and *Sher Singh v. State of Haryana* ((2015) 3 SCC 724), the Supreme Court has ensured that foundational facts and proximity requirements remain essential. Thus, domestic reverse burden clauses illustrate a limited and conditional departure from traditional burdens, one that continues to operate under the shadow of constitutional safeguards.

REVERSE BURDEN OF PROOF UNDER SPECIAL CRIMINAL LEGISLATIONS

While reverse burden provisions first emerged prominently in domestic violence and dowry death jurisprudence, their most stringent application is found in special criminal statutes dealing with narcotics, child sexual offences, corruption, and terrorism. These legislations are often justified on the ground that such crimes pose extraordinary threats to society, are committed in secrecy, and involve complex evidentiary barriers (India, 1996).

However, these laws also generate the sharpest constitutional tension because they significantly dilute the prosecution's traditional obligation to prove guilt beyond reasonable doubt. The accused is frequently compelled to disprove culpability, sometimes even at the initial stage of trial. Among these, the Narcotic Drugs and Psychotropic Substances Act, 1985 & Protection of Children from Sexual Offences Act, 2012 represent the most significant reverse burden frameworks in contemporary Indian criminal law (Goyal, 2020).

The NDPS Act contains some of the strictest presumptions in Indian criminal jurisprudence. Section 35 presumes the existence of a culpable mental state, while Section 54 permits the court to presume that an accused found in possession of narcotic substances has committed an offence, unless he can account satisfactorily for such possession.

The legislative intent behind these provisions lies in the difficulty of combating organised drug trafficking, where direct evidence of intent and knowledge is often unavailable. Parliament therefore adopted presumptions to strengthen enforcement and deterrence. However, the Supreme Court has consistently held that these presumptions cannot override constitutional safeguards. The NDPS Act's reverse burden clauses have been subjected to strict judicial scrutiny because of the severe punishments prescribed, including long mandatory minimum sentences (Tapan, 2020).

In *Noor Aga v. State of Punjab* ((2008) 16 SCC 417), the Supreme Court held that presumption of innocence is a human right and that reverse burden provisions must be applied cautiously. The Court clarified that the prosecution must first establish foundational facts such as conscious possession beyond reasonable doubt before the burden shifts to the accused. The judgment emphasised that reverse burden clauses cannot relieve the prosecution of its primary duty. The Court observed that procedural fairness under Art. 21 requires that statutory presumptions must satisfy the test of proportionality.

Similarly, in *Mohd. Sahabuddin v. State of Assam* ((2012) 13 SCC 491), the Court reiterated that the presumption under Section 54 does not automatically arise merely because recovery is shown. The prosecution must prove conscious and exclusive possession, failing which the reverse burden cannot operate. Thus, judicial interpretation has narrowed the scope of NDPS presumptions, ensuring that the burden-shifting mechanism does not become an instrument of unjust conviction.

The concept of "conscious possession" has become central in NDPS jurisprudence. Courts have insisted that possession must not be interpreted mechanically, as the reverse burden can only arise when the prosecution proves that the accused had knowledge and control over the contraband. In *Avtar Singh v.*

State of Punjab ((2002) 7 SCC 419), the Supreme Court held that mere physical proximity is insufficient; conscious possession must be established through credible evidence.

Further, in *Dharampal Singh v. State of Punjab* ((2010) 9 SCC 608), the Court observed that strict compliance with procedural safeguards is essential because NDPS offences carry harsh consequences. Even minor lapses in seizure and sampling procedures may vitiate the prosecution case.

These decisions highlight that reverse burden under NDPS law is conditioned upon prosecutorial compliance with foundational requirements. The judiciary's insistence on procedural rigour reflects an attempt to reconcile societal interest in controlling narcotics with constitutional demands of fairness.

REVERSE BURDEN UNDER POCSO ACT - SECTION 29's PRESUMPTION

The Protection of Children from Sexual Offences Act, 2012 represents another major victim-centric statute incorporating reverse burden principles. Section 29 provides that where a person is prosecuted for specified sexual offences, the Special Court shall presume that the accused has committed the offence unless the contrary is proved (Singh, 2018).

The rationale behind this presumption lies in the vulnerability of child victims, the private nature of sexual offences, & difficulties of securing direct corroborative evidence. POCSO thus embodies a legislative commitment to victim protection and child dignity. However, the presumption under Section 29 has generated concerns regarding dilution of fair trial rights. The accused is compelled to rebut guilt, potentially undermining the presumption of innocence.

Courts have attempted to balance this by holding that the presumption arises only after the prosecution establishes a prima facie case. In *Alakh Alok Srivastava v. Union of India* ((2018) 17 SCC 291), while addressing procedural aspects of POCSO implementation, the Supreme Court emphasised that child protection must operate alongside due process guarantees.

High Courts have similarly held that Section 29 does not absolve the prosecution from proving foundational facts. The accused's burden is one of rebuttal, not of proving innocence beyond reasonable doubt. Thus, even within strongly victim-centric frameworks like POCSO, judicial interpretation has sought to prevent presumptions from becoming automatic convictions (Kumar, 2024).

Reverse burden provisions also exist under anti-corruption statutes. Section 20 of the Prevention of Corruption Act, 1988 creates a presumption that when illegal gratification is proved, it is presumed to have been accepted as a motive or reward, unless rebutted. In *V. D. Jhingan v. State of Uttar Pradesh* (AIR 1966 SC 1762), the Supreme Court clarified that even where presumptions apply, the prosecution must first establish demand and acceptance beyond reasonable doubt. More recently, in *B. Jayaraj v. State of Andhra Pradesh* ((2014) 13 SCC 55), the Court held that presumption under corruption law arises only after proof of demand, and mere recovery of money is insufficient. This demonstrates a consistent judicial principle, reverse burden clauses are secondary and conditional, not substitutes for prosecutorial responsibility.

Reverse burden provisions represent a fundamental tension between collective security and individual liberty. Victim-centric reforms often arise from legitimate concerns, vulnerable victims, private crimes, organized criminal networks, and systemic under-reporting. However, shifting the burden onto the accused risks undermining the normative foundation of criminal law. Presumption of innocence is not merely an evidentiary rule but a safeguard against State power. The Supreme Court in *Noor Aga v. State of Punjab* ((2008) 16 SCC 417) warned that reverse burden clauses must satisfy constitutional proportionality. The harsher the punishment, the greater the scrutiny required.

This is particularly relevant under NDPS and POCSO laws, where penalties are severe and social stigma is immense. The risk is that presumptions may lead to wrongful convictions, especially when investigative procedures are flawed or when allegations are misused. Thus, while victim-centric legislation is necessary, it must not result in the erosion of due process guarantees. Reverse burden provisions under special criminal statutes represent the strongest departure from traditional prosecution-centric burdens. NDPS and POCSO presumptions illustrate how victim protection and societal security concerns have reshaped evidentiary norms (Gurvinder, 2022).

Yet judicial interpretation has consistently imposed safeguards by insisting on proof of foundational facts, strict procedural compliance, and narrow application of presumptions. Decisions such as *Noor Aga v. State of Punjab* ((2008) 16 SCC 417) and *B. Jayaraj v. State of Andhra Pradesh* ((2014) 13 SCC 55) reflect this balancing exercise. The fragile equilibrium between victim justice and accused rights therefore continues to define the constitutional discourse on reverse burden of proof in India.

CONSTITUTIONAL FRAMEWORK - REVERSE BURDEN AND ARTICLE 21

The constitutional debate surrounding reverse burden provisions centers upon Art. 21 of the Constitution of India, which guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Over time, the Supreme Court has interpreted this “procedure” requirement as encompassing substantive due process, requiring that criminal procedure must be fair, just, and reasonable (Republic, 1970).

This transformative interpretation was firmly established in *Maneka Gandhi v. Union of India* ((1978) 1 SCC 248), where the Court held that laws affecting personal liberty cannot be arbitrary, oppressive, or disproportionate. Reverse burden clauses, by shifting the evidentiary responsibility onto the accused, therefore invite scrutiny under Art. 21 because they alter the traditional fairness of criminal adjudication.

The presumption of innocence, though not expressly enumerated in the Constitution, has been treated as intrinsic to the right to fair trial. In *Noor Aga v. State of Punjab* ((2008) 16 SCC 417), the Supreme Court explicitly recognized presumption of innocence as a human right and warned that statutory deviations through reverse burden provisions must satisfy the test of constitutional reasonableness. Thus, reverse burden clauses occupy a constitutionally sensitive space, they may be permissible as exceptions, but they cannot become instruments that undermine the core guarantee of procedural justice.

A critical constitutional tool for assessing reverse burden provisions is the doctrine of proportionality. Under this doctrine, restrictions on individual rights must pursue a legitimate aim, must be rationally connected to that aim, must impair rights minimally, and must maintain a balance between societal interest and individual liberty (Singla, 2025).

The Supreme Court has implicitly applied proportionality reasoning in cases involving stringent reverse burden statutes. In *Noor Aga v. State of Punjab* ((2008) 16 SCC 417), the Court held that because NDPS offences carry extremely harsh punishments, reverse burden provisions must be interpreted strictly and cannot operate without foundational prosecutorial proof.

Similarly, the Court has insisted that presumptions cannot become substitutes for investigation. In *Dharampal Singh v. State of Punjab* ((2010) 9 SCC 608), procedural safeguards under NDPS law were treated as indispensable because reversing the burden without strict compliance would render the trial unfair. This reflects the proportionality principle in operation, the more severe the consequences for the accused, the more rigorous the safeguards required before shifting the burden. Thus, victim-centric presumptions may be constitutionally permissible only when proportionate and accompanied by procedural protections.

JUDICIAL RECONCILIATION: FOUNDATIONAL FACTS AS THE CONSTITUTIONAL THRESHOLD

A consistent judicial strategy for reconciling victim-centric legislation with accused-centric safeguards has been the insistence on foundational facts. Courts have repeatedly held that reverse burden clauses do not operate in a vacuum; they are triggered only after the prosecution establishes a *prima facie* case beyond reasonable doubt (Gupta, 2024).

In corruption jurisprudence, this principle is evident in *B. Jayaraj v. State of Andhra Pradesh* ((2014) 13 SCC 55), where the Court held that the presumption under the Prevention of Corruption Act arises only after proof of demand and acceptance of bribe, and not merely upon recovery of money. In dowry death jurisprudence, the same approach was adopted in *Baijnath v. State of Madhya Pradesh* ((2017) 1 SCC 101), where the Court clarified that the presumption under Section 113B Evidence Act arises only when cruelty linked to dowry demand “soon before death” is proved.

In NDPS jurisprudence, the foundational requirement was central in *Avtar Singh v. State of Punjab* ((2002) 7 SCC 419), where the Court held that conscious possession must be established before the statutory presumption applies. This judicial insistence on prosecutorial thresholds ensures that reverse burden clauses remain conditional rather than absolute. It preserves the prosecution’s primary duty and prevents the accused from being unfairly compelled to prove innocence at the outset.

Despite constitutional concerns, it cannot be denied that reverse burden provisions have emerged in response to structural realities of crime and victimization. Many offences occur in private spaces, where victims face intimidation, stigma, and power imbalance. Sexual offences against children, dowry deaths,

and organized narcotics trafficking present unique evidentiary difficulties. The Supreme Court in *State of Punjab v. Gurmit Singh* ((1996) 2 SCC 384) recognized that victims of sexual offences experience deep trauma and that courts must not impose unrealistic evidentiary expectations.

Similarly, Parliament's incorporation of presumptions under POCSO reflects an acknowledgement that child victims cannot be burdened with the same standards of corroboration traditionally demanded in criminal trials. Thus, reverse burden clauses may be justified as legislative tools to correct systemic disadvantages and ensure accountability in offences where conventional burdens fail to secure justice. However, such victim-centric reforms must not be pursued at the cost of dismantling fundamental safeguards (Pandey, 2025).

The principal critique of reverse burden provisions lies in their potential to erode the normative foundation of criminal jurisprudence. Criminal law has historically prioritized protection against wrongful conviction, recognizing that the consequences of conviction are severe and often irreversible. Court in *Kali Ram v. State of Himachal Pradesh* ((1973) 2 SCC 808) famously held that it is better that ten guilty persons escape than that one innocent suffer. Reverse burden clauses challenge this philosophy by shifting the evidentiary pressure onto the accused, sometimes in circumstances where access to rebuttal evidence is limited.

Further, misuse concerns have also been highlighted in domestic cruelty jurisprudence. In *Preeti Gupta v. State of Jharkhand* ((2010) 7 SCC 667), the Court warned against exaggerated and false implication of relatives in dowry-related offences. Thus, while reverse burden provisions may strengthen victim protection, they also risk creating over-criminalization, investigative complacency, and dilution of due process.

CONCLUSION

Reverse burden of proof provisions represents one of the most significant transformations in Indian criminal jurisprudence. Emerging from victim-centric legislative reforms, these clauses aim to address systemic disadvantages faced by victims in offences such as dowry deaths, sexual violence, narcotics trafficking, and corruption. However, such provisions simultaneously generate profound constitutional tension by challenging the presumption of innocence & accused's right to fair trial under Art. 21. Court has attempted reconciliation by interpreting reverse burden clauses strictly, insisting upon proof of foundational facts, and applying proportionality scrutiny.

The balance between victim justice and accused safeguards remains fragile. While victim-centric reforms are indispensable in a society confronting serious crimes, they must operate within constitutional boundaries to prevent erosion of due process. Reverse burden provisions can be justified only as limited departures, not as replacements for the prosecution's duty to prove guilt beyond reasonable doubt. Thus, the future of Indian criminal law lies in harmonizing victim protection with procedural fairness, ensuring that justice is not secured through presumptions alone but through a system that remains both effective and constitutionally humane.

A WAY FORWARD FOR A BALANCED LEGAL APPROACH

A constitutionally sustainable approach to reverse burden provisions necessitates that such mechanisms function within rigorously circumscribed boundaries, so as to remain compatible with the fundamental principles of criminal jurisprudence and due process. Judicial interpretation has consistently emphasized that any departure from the presumption of innocence must be justified by compelling necessity and accompanied by robust safeguards. Courts have therefore insisted upon strict proof of foundational or jurisdictional facts by the prosecution before any statutory presumption can be triggered, ensuring that the accused is not called upon to rebut an allegation resting on conjecture or inadequately established facts. Equally significant is the requirement that presumptions be construed narrowly and applied with restraint, so that they do not eclipse the prosecution's primary obligation to establish guilt beyond reasonable doubt. Even where a reverse burden is statutorily imposed, the prosecution continues to bear responsibility for proving the essential elements of the offence, & evidentiary threshold for shifting the burden cannot be diluted merely for reasons of administrative convenience or perceived social exigency.

In this context, burden-shifting statutes cannot operate in isolation from procedural and institutional safeguards. Over-reliance on presumptions risks substituting evidentiary rigor with legal fiction, thereby increasing the possibility of wrongful conviction, particularly in cases involving vulnerable or marginalized accused persons. Meaningful procedural reforms must therefore accompany such legislative measures. Strengthening investigative standards, ensuring the integrity and independence of forensic processes, and improving evidentiary collection methods can substantially mitigate the difficulties that reverse burdens are often designed to address. Parallel investment in victim support mechanisms and comprehensive witness protection programmes can enhance the quality and reliability of testimony, reducing the perceived necessity of statutory presumptions. These measures align more closely with constitutional values by reinforcing fact-finding accuracy rather than displacing it.

Hence, reverse burden provisions must remain exceptional rather than normative features of criminal law. Their justification lies only in narrowly tailored circumstances where ordinary evidentiary rules are demonstrably inadequate due to insurmountable barriers inherent in the nature of the offence, and not merely because proof is difficult or resource intensive. Even in such cases, the operation of reverse burdens must be tempered by judicial oversight and procedural guarantees that preserve fairness and proportionality. A constitutional balance is achieved not by expanding presumptions, but by ensuring that any deviation from the presumption of innocence is strictly necessary, carefully limited, and consistently subject to safeguards that protect against arbitrariness and injustice.

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