

CORPUS DELECTI

by
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Introduction:-

The word Corpus delicti is a Latin word meaning.

Body of the crime:- Corpora delicti is a term from Western jurisprudence referring to the principle that a crime must be proved to have occurred before a person can be convicted of committing that crime.

For example, a person cannot be tried for larceny unless it can be proven that property has been stolen. Likewise, in order for a person to be tried for arson it must be proven that a criminal act resulted in the burning of a property. Black's Law Dictionary (6th ed.) defines "*corpus delicti*" as: "The fact of a crime having been actually committed".

In the Anglo-American legal system, the concept has its outgrowth in several principles. Many jurisdictions hold as a legal rule that a defendant's out-of-court confession, alone, is insufficient evidence to prove the defendant's guilt beyond reasonable doubt. A corollary to this rule is that an accused cannot be convicted solely upon the testimony of an accomplice. Some jurisdictions also hold that without first showing independent corroboration that a crime happened, the prosecution may not introduce evidence of the defendant's statement.

The best and easiest evidence establishment in these cases is the physical body of the deceased. However, in the event that a physical body is not present or has not yet been discovered, it is possible to prove a crime took place if sufficient circumstantial evidence is presented to prove the matter beyond a reasonable doubt. For example, the presence at a missing person's home of spilled human blood, identifiable as that person's, in sufficient quantity to indicate exsanguination, demonstrates even in the absence of a corpse that the possibility that no crime has occurred, and the missing person is merely missing, is not reasonably credible.

Specific offences

In general, all *corpus delicti* requires at a minimum:

1. The occurrence of the specific injury; and
2. some intentional, knowing act as the source of the injury.

For example:

Homicide: 1) An individual has died 2) as a result of action (or inaction) by another person.

Example of Corpus Delicti in Arson Cases

While the term *corpus delicti* commonly makes people to think of the need for a body in a murder case, it is necessary to have this “body of evidence” in other types of crime as well. Arson cases are especially challenging to prosecute, as the state must show proof that (1) a fire occurred, causing damages, and (2) the fire was caused by a criminal or intentional act, rather than accident or nature. Arson cases require the same presentation of evidence surrounding the fact of the crime, other than a person’s confession, as murder.

For example:

Leanne put her two small children to bed, then went out to the apartment complex laundry room for a few minutes, leaving a couple of scented candles lit on the table. The cat knocked the candles off the table, where they caught a stack of papers on the floor on fire. Leanne had gotten distracted by a neighbor, staying to chat for a bit while the girls slept. Suddenly, Leanne heard screaming and, when she headed back to her apartment, she realized it was engulfed in flames.

Corpus Delicti Example in Woman’s Disappearance

On a warm August night in 1985, Carolyn Kenyon left her apartment, headed for her boyfriend’s house in shorts and her bare feet. She told her roommate she would be home by midnight, and didn’t take anything with her, not even her ID or her medications. Carolyn was never seen or heard from again. Dozens of people helped search for Carolyn, but her disappearance remained a mystery.

Five years later, the boyfriend, James McMahan, was being questioned in connection with the murder of a 10-year old little girl. He gave three separate statements to police in Detroit, confessing to killing the girl, as well as to killing his wife, Cheryl, and Carolyn Kenyon. As police attempted to gain more information about Carolyn, McMahan said the two of them were drinking and smoking marijuana at his house, when she made him angry, and he stabbed her in the chest.

Theft

Theft is a criminal act that involves depriving a person of his property. The legal term *theft* is a very broad term in that it applies to a wide range of crimes, all of which consist of taking of someone’s property, with the intent of permanently depriving him of it. To explore this concept, consider the following *theft* definition.

Definition of Theft

1. The act of stealing.
2. The act of wrongfully taking and carrying away the property of another person with the intent of depriving the rightful owner of the possession.

What is Theft

Theft is a term used to describe a crime that involves taking a person's property without his consent. In the law, the term *theft* encompasses more than one act, but in order for an action to be considered theft, two key elements must be met. These include:

1. Taking property from its rightful owner, and
2. Having the intent to deprive the rightful owner of the property permanently.

Taking a person's property involves taking possession or control of property that rightfully belongs to someone else. However, attempting to take someone else's property can also be considered theft, if the perpetrator's intent was to deprive the individual of his property. The element of intent is often the most challenging legal question in theft cases, as defendants often claim they thought the property was theirs to begin with, or that they were just borrowing the property.

In essence corpus delicti of crimes refers to evidence that a violation of law occurred, no literal 'body' is needed.

Rights are of two kinds, namely "of the person" (*jura personarum*) and "to control external objects" (*jura rerum*).

Wrongs are also of two kinds and they are either public or private. Public wrongs are called crimes or public offenses whereas private wrongs are called torts and either involve the breach of a duty of care, a wrongful trespass against the person or property of another, and breaches of agreement or contract. This difference forms the distinction between criminal law (regarding crime) and civil law (regarding torts).

Corpus Delicti

Corpus Delicti is the foundation or material substance of a crime.

The phrase corpus delicti might be used to mean the physical object upon which the crime was committed, such as a dead body or the charred remains of a house, or it might signify the act itself, that is, the murder or **Arson**.

The *corpus delicti* is also used to describe the evidence that proves that a crime has been committed.

Corpus delicti is the substantial fact that a crime has been committed, and in popular crime Jargon, the body of the murder victim.

The body of an offence is the essential fact that constitute the crime. Thus, it is not the corpse in a murder trial although a dead body is one of the facts that constitute the corpus delicti.

Corpus Delicti: - The body of the offence; the essence of the crime

It is a general rule not to convict unless the corpus delicti can be established, that is, until the dead body has been found. Best on Pres. Sec. 201; 1 Stark. Ev. 575, See 6 C. & P. 176; 2 Hale, P. C. 290. Instances have occurred of a person being convicted of having killed another, who, after the supposed criminal has been put to death for the supposed offence, has made his appearance alive. The wisdom of the rule is apparent; but it has been questioned whether, in extreme cases, it may not be competent to prove the basis of the corpus delicti by presumptive evidence.

The corpus delicti rule is intended to further the general policies: 1) to protect the mentally unstable from being convicted as a result of untrue confessions; 2) to ensure that innocent people are not convicted as a result of coerced, involuntary "confessions".

Corpus Delicti Law and Legal Definition

Corpus delicti is a Latin term meaning "body of the crime". It is the essential facts that prove that a crime has been committed.

The doctrine of corpus delicti is the requirement that the state prove that a crime has been committed prior to allowing a confession to be admitted into evidence. The primary function of the rule is to reduce the risk of convicting a defendant based on his confession for a crime that did not occur. Other justifications include the reduction of confessions produced by coercive tactics and the encouragement of thorough police investigations.

Corpus delicti is a Latin phrase that means *body of the crime*. The phrase body here does not only pertain to a possible corpse, but actually relates to any form of evidence, so it is important to remember that there is both a literal and figurative association. In regards to criminal investigations, this concept means that there should be enough evidence to prove that a crime occurred in order for an individual to be charged for the offense.

Applications of the Rule

Why was the rule designed? It was established to help prevent individuals from being charged with an offense they didn't commit. In addition, the rule provides a certain amount of protection for those individuals who suffer from mental illness or mental instability and who may have confessed to a crime they did not even commit. False confessions, although they don't happen all the time, do take place.

Corpus delicti applies to all crimes, but it is considered to be an especially important concept within any murder investigation. There should be a body or at least a body of evidence for police to work with before they charge someone with a crime. When someone goes missing and these two things don't exist, police often have a difficult time charging a crime; if there isn't a body or at least evidence present to prove there was a death, then a person is most likely considered to be a missing person or a runaway rather than a homicide victim.

However, it should be noted that the prosecution within such an investigation will aim to charge for a conviction of guilt in a homicide case even if the body is not located, just as long as there is substantial circumstantial evidence present that ultimately leads beyond a reasonable doubt.

For example, if you were a suspect within a murder case, it would be really difficult for an attorney to charge you with murder when they are unable to locate a body or sufficient evidence proving that you committed such an act. However, if your cell phone contained incriminating information that was associated to you being the responsible party or co-conspirator in a crime like murder, then all cards are off the table and you can most certainly be prosecuted. Remember, there does not have to be a body present if enough supporting or circumstantial evidence is present.

Why is corpus delicti important?

Corpus delicti is very important in investigations and criminal cases. Basically, the rule states that there should be enough evidence either in the form of a body or in other forms -- to prove that a crime took place before an individual can be charged with that crime.

The Latin term corpus delicti refers to the principle that there must be some proof that a crime has been committed before a person can be convicted of having committed that crime. In Western law, the term has also been widely used to refer to the object upon which the crime was committed, meaning a body, in the case of a murder, which itself proves the crime was committed.

What is Corpus Delicti

The term *corpus delicti*, which literally means "body of crime," is best understood in realizing a person cannot be put on trial for a crime, unless it is first proven that the crime happened to begin with. In other words, the prosecution would need to demonstrate that something bad happened as a result of a law having been violated, and that someone – the defendant – was

the one who violated it. There are two elements of *corpus delicti* in any offense:

1. A certain consequence, or injury, has occurred
2. The consequence, or injury, is a result of a person's intentional, unlawful act.

For example:

Steven believes that his neighbor, Frank, stole his lawnmower from his backyard. He makes a police report, but acknowledges that he has no proof that Frank took it, but claims that Frank has coveted the lawnmower, and he must have taken it because it is missing. In order for the district attorney's office to be able to prosecute Frank for the crime of theft, there must be proof that (1) Steven's lawnmower was stolen, and (2) that Frank stole it.

Statements by other neighbors seem to support Frank's claim that Steven has memory lapses, and that he frequently accuses neighbors and other people of wrongdoing. In this example, *corpus delicti* has not been proven, as there is no evidence a crime has actually been committed, neither is there evidence that any person is criminally responsible for anything.

Corpus Delicti and a Confession

When someone confesses to a crime, the issue of corpus delicti becomes a little more tricky, as a person's confession, without substantial proof that the required elements of *corpus delicti* exist, is not generally sufficient to convict the person. As a matter of fact, a person's statement, or confession, may not even be admissible in court, if the prosecution has not already presented some independent evidence that the crime even occurred.

For example:

Thomas appears at the police station and confesses to having killed Beth, but nobody has reported that Beth is missing, and there is no body. Thomas cannot be charged with murder – what if Beth turned up a couple of weeks later, alive and well? If Beth doesn't come home, however, and an investigation ensues, but no body is found, and there is no actual evidence that something untoward happened to her, the prosecution is likely to have a more difficult time demonstrating the *corpus delicti*, as there is no body of evidence.

The legal position as to Corpus Delicti:-

K.T Palanisamy vs. State Of Tamil Nadu

S.B Sinha, J.— The appellant with two others, namely, A-2, Vellingiri, and A-3, Officer @ Paramasivam, were prosecuted for commission of the offence of murder of one Somasundaram.

It was held:

All the prosecution witnesses are related to the deceased. It is difficult for us to believe that all the witnesses saw the deceased accompanying the accused persons one after the other at different places. Therefore, chances of their deposing falsely cannot be ruled out. Be that as it may, when the offence is said to have been committed and the circumstantial evidence is made the basis for establishing the charge against the appellant, indisputably all the links must be completed to form the basis for his conviction.

It was further held:

It is now well settled that in a case where an offence is said to have been established on circumstantial evidence alone, indisputably all the links in the chain must be found to be complete as has been held in *Sharad Birdhichand Sarda v. State of Maharashtra* AIR 1984 SC 1622 in the following terms: (SCC pp. 185-86, paras 153-154)

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* 1973 2 SCC 793 where the following observations were made: (SCC p. 807, para 19).

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence."

The appeal is allowed and the appellant in jail is set at liberty.

State Of Karnataka vs. M.V Mahesh.

Rajendra Babu, J.— This case bristles with mystery over mystery as to the disappearance of Beena, wife of the respondent. On a complaint lodged about the missing of the said Beena, investigation was taken up by the police and on recovery of human bones MO 13 to MO 20 which were subjected to DNA examination, in order to establish the identity of the said bones as that of Beena, laid a charge-sheet against the respondent and his father in the Court of Session at Bangalore which court, after an elaborate trial, found that there are incriminating circumstances involving the respondent and his father in the offence alleged against them, namely, murder of Beena and convicted both of them who successfully appealed against the same. Hence this appeal. During pendency of this appeal the father of the respondent died.

Further, the so-called statement given by the respondent leading to discovery of the bones of Beena does not seem to have been appropriately put forth before the court. The statement given by the respondent is a very lengthy one, narrating various circumstances as to how he fell in love with the said Beena, thereafter got married much against the wishes of his parents and she was in the family way at the relevant time and so on. So far as the respondent is concerned, no motive appears to have been established. Further, the statement of the respondent as such leading to the discovery is neither marked nor put to the witnesses for prosecution. Indeed, whether the statement made by him really led to the discovery itself is in doubt inasmuch as the police had already information through another witness and that circumstance was strongly relied upon by the High Court. The High Court held that the statement made by the respondent, if at all, will not lead to any discovery inasmuch as the information was already in possession of the police and that reasoning cannot be faulted with. The whole prosecution case is a chain of circumstances connecting one with another with many missing links in between. These aspects were noticed by the High Court and, therefore it did not accept the case put forth by the prosecution.

The appeal was dismissed.

Rishipal v. State Of Uttarakhand.

T.S Thakur, J.— This appeal arises out of a judgment and order dated 27-8-2008 passed by the High Court of Uttarakhand at Nainital whereby Criminal Appeal No. 298 of 2001 filed by the appellant has been partly allowed. The High Court has while setting aside the conviction and sentence awarded to the appellant under Section 302 IPC upheld his conviction for offences punishable under Sections 171, 201 and 420 IPC and the sentence awarded by the trial court for these offences. The High Court has further convicted the appellant

for an offence punishable under Section 365 IPC and sentenced him to undergo rigorous imprisonment for a period of seven years on that count.

Appreciation of evidence thus assembled at the trial led the trial court to the conclusion that the appellant had committed offences punishable under the provisions with which he stood charged and accordingly sentenced him to life imprisonment for the offence of murder besides a fine of Rs 3000. For the remaining offence he was sentenced to undergo rigorous imprisonment ranging between two months to five years with the direction that all the sentences shall run concurrently.

It was observed by the Hon'ble Supreme Court:

In the absence of corpus delicti what the court looks for is clinching evidence that proves that the victim has been done to death. If the prosecution is successful in providing cogent and satisfactory proof of the victim having met a homicidal death, absence of corpus delicti will not by itself be fatal to a charge of murder. Failure of the prosecution to assemble such evidence will, however, result in failure of the most essential requirement in a case involving a charge of murder. That is precisely the position in the case at hand. There is no evidence either direct or circumstantial about Abdul Mabood having met a homicidal death. The charge of murder levelled against the appellant, therefore, rests on a rather tenuous ground of the two having been last seen together to which aspect we shall presently advert when we examine whether the two being last seen together is proved as a circumstance and can support a charge of murder.

This Court considered the following decisions:- Sukhram v. State of Maharashtra (2007) 7 SCC 502, Sunil Clifford Daniel (Dr.) v. State of Punjab (2012) 8 SCALE 670, Pannayar v. State of Tamil Nadu by Inspector of Police (2009) 9 SCC 152]. Absence of strong motive in the present case, therefore, is something that cannot be lightly brushed aside.

Also considered the decision In Mohibur Rahman and Anr. vs. State of Assam (2002) 6 SCC 715, this Court held that the circumstance of last seen does not by itself necessarily lead to the inference that it was the accused who committed the crime. It depends upon the facts of each case.

Similarly in Arjun Marik and Ors. V. State of Bihar 1994 Supp (2) SCC 372, this Court reiterated that the solitary circumstance of the accused and victim being last seen will not complete the chain of circumstances for the Court to record a finding that it is consistent only with the hypothesis of the guilt of the accused. No conviction on that basis alone can, therefore, be founded. So also in Godabarish Mishra v. Kuntala Mishra and Another (1996) 11 SCC 264, this Court declared that the theory of last seen together is not of universal application and may not always be sufficient to sustain a conviction

unless supported by other links in the chain of circumstances. In *Bharat vs. State of M.P* (2003) 3 SCC 106; two circumstances on the basis whereof the appellant had been convicted were

(i) the appellant having been last seen with the deceased and (ii) Recovery of ornaments made at his instance. This Court held :

“Mere non-explanation cannot lead to the proof of guilt against the appellant. The prosecution has to prove its case against the appellant beyond reasonable doubt. The chain of circumstances, in our opinion, is not complete so as to sustain the conviction of the appellant”.

We may also refer to **State of Goa vs. Sanjay Thakran and Anr.** (2007) 3 SCC 755 where this Court held that in the absence of any other corroborative piece of evidence to complete the chain of circumstances it is not possible to fasten the guilt on the accused on the solitary circumstance of the two being seen together. Reference may also be made to *Bodh Raj alias Bodha and Ors. v. State of Jammu and Kashmir* (2002) 8 SCC 45 where this Court held :

“The last-seen theory comes into play where the time-gap between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. In the absence of any other positive evidence to conclude that the accused and the deceased were last seen together, it would be hazardous to come to a conclusion of guilt in those cases....”

Finally in *Jaswant Gir v. State of Punjab* (2005) 12 SCC 438, this Court held that it is not possible to convict Appellant solely on basis of 'last seen' evidence in the absence of any other links in the chain of circumstantial evidence, the Court gave benefit of doubt to accused persons.

Considering the above decision it was held that:

The order passed by the High Court deserves to be affirmed giving to the appellant the benefit of doubt. We accordingly dismiss the appeal filed by the appellant and discharge the notice of show-cause issued to him.
