



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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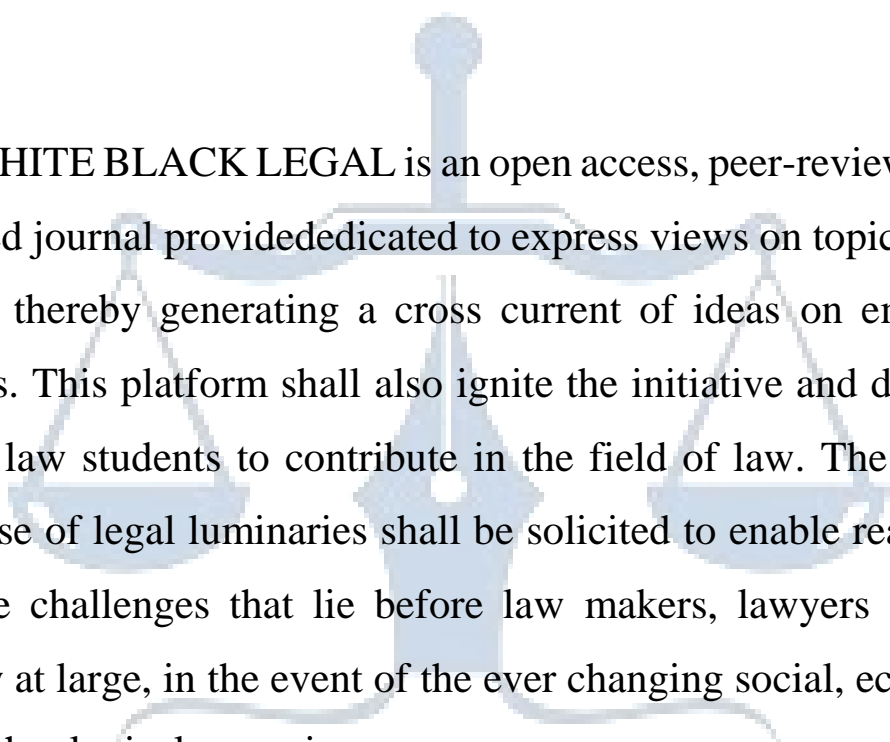


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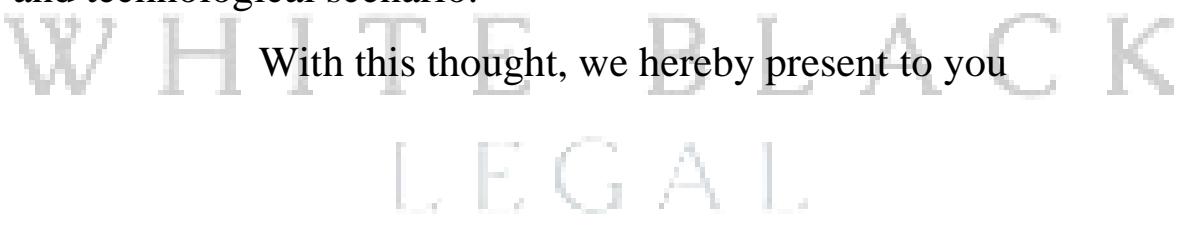
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



**UNDERSTANDING THE ACCUSED'S PERSPECTIVE:  
EXAMINATION INSIGHTS UNDER THE CODE OF  
CRIMINAL PROCEDURE (CRPC) AND THE  
BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS):**

AUTHORED BY - SIDHIDA VARMA S

**Overview**

The examination of an accused is a critical phase of the process of natural justice in the criminal justice system. Section 313 CrPC allows the court to examine the accused persons, enabling them to explain incriminating pieces of evidence brought forward against them. This section reflects the principle of audi alteram partem-the right to be heard safeguards the accused from being treated merely as an object of trial. The provision ensures a fair trial by allowing the accused to articulate their version of events, thereby fostering a humane approach toward justice.

The BNSS, being a progressive reform through which criminal procedure laws are modernized, continues this principle. It further incorporates safety measures for the accused and intensifies procedural fairness and the scope of Section 313 CrPC to respond to modern challenges and incorporate new merit-promoting techniques to increase transparency and accountability. The BNSS integrates gaps in the system while making sure the rights of the accused come first.

This article discusses the legal importance, procedural requirements, and judicial interpretation of Section 313 CrPC, along with its correlation with the BNSS provisions. Key aspects, such as the duties of the court, consequences of non-compliance, and notable case laws, are analyzed to provide a comprehensive understanding. The paper argues for a balance between prosecution and defense, highlighting the evolving nature of these provisions as a vital element of a fair trial. This development further cements the commitment of the legal system to uphold justice and respect human dignity.

## **Introduction**

For a warrant case or summons case, when the trial procedure starts, the evidence of the prosecution is taken by the competent judge, and cross-examination to that effect is permitted at his or her discretion. Examination of the accused is the next step in the trial.

According to the 41st Report of the Law Commission<sup>1</sup>, section 313 is individual of the ultimate important divisions in the Criminal Process Law, of 1973. Section 313 demands the court to check the blame<sup>2</sup>. Through this Division, the court shall question the blamed mainly concerned. This allows the blamed to describe the chances or that that leads to those circumstances concerning the evidence performed against him.

It is through this portion that the voice of the blamed is perceived outside squelching him. He is considered a human and a sympathetic approach toward his trial is begun for one court. The court must believe the mandate of the blamed in a habit that it searches out favors him more like a human and less like a brute.

This item examines the miscellaneous facets of Section 313<sup>3</sup> and the significance of the unchanging.

## **Relevance of this Section**

In consideration of work by the standard of fundamental justice of a criminal trial, it should for the court to guarantee that each trivial detail in link to the case is caused to the consideration of the blamed.

- This particular section acts as a procedural safeguard through which the court has a direct dialogue with the accused to explain those incriminating circumstances which may render the accused guilty upon conviction.
- This section uplifts the principles of righteousness and fairness for imparting criminal justice.
- This portion reflects the normal justice law - audi alteram partem. Namely, the other body must be given a moment to be perceived.

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<sup>1</sup> 41st Law Commission Report - p 204, para 24.40

<sup>2</sup> Israel, Jerold H. "Free-Standing Due Process and Criminal Procedure: The Supreme Court's Search for Interpretive Guidelines." Saint Louis University Law Journal 45.2 (2001): 4.

<sup>3</sup> Section 313, The Code of Criminal Procedure, 1973 (Act No. 2 of 1974).



- <sup>4</sup>Further, this portion puts a burden on the court to question the blamed completely but not to subject him to some inquiry orderly for fear that he is captured to permit an entity that the government had abandoned to demonstrate. The court searched out find out the blame and not force the blame into solving.
- The declaration of aforementioned a character fashioned by the blamed is not by the curse. Therefore, he cannot see answerable for the fake statements fashioned by him all the while on the test. This protects the blamed and in return will help him to talk freely outside some force.
- An individual item that is to be famous is that the assertion made apiece blamed during the test under section 313, if found expected honest and reasonable, is approved and the government will have to demonstrate further sensible doubt that it is false. This enhances the pertinence of this portion as it will maintain the maxim "Allow a Hundred Accused Be Acquitted But Individual Harmless Should Not Be Imprisoned"

### **Explaining the Section**

- Sub-section (1) Clause (a) of Section 313<sup>5</sup> supports that in all asking or trials, the court concedes possibility at some stage without earlier warning the blamed, and introduces in front of him some questions as it considers unavoidable. This is for the permissive the blamed to independently illustrate some income performing against him in the evidence.
- Sub-section (1) Clause (b) of Section 313 imposes a duty, that is required for the courts to guarantee that the blame is challenged by one court subsequently the close of the prosecution case. Still, the provision explains that the court conceded the possibility omit the test of the blamed in a summons case.
- Sub-section (2) demonstrates that no promise is going to be executed to the accused cause he is not a witness when he is being checked under Division 313.
- Sub-section (3) supplies a safeguard to the blamed. They blame, them if he neglect to answer the questions communicated to them or if they give dishonest answers to the ruling class before he will not likely to some penalty for the unchanging.
- Sub-section (4) of Section 313 explains that the answers likely for one blamed can be overthrown by an enemy into concern in the inquiry or trial. Namely, the answers

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<sup>4</sup> Ruggeri, Stefano. Audi alteram partem in criminal proceedings: towards a participatory understanding of criminal justice in Europe and Latin America. Springer, 2017.

<sup>5</sup> Section 313, The Code of Criminal Procedure, 1973 (Act No. 2 of 1974).

concede the possibility be introducing evidence for or against him in the after-askings or trials.

### **Duties of the Court**

- It is the charge of the court as per sections 313(1)(b) to question the blamed “mainly”, while worrying about this power, it must guarantee that no prejudiced questioning is supervised towards the blamed. The blame must be doubted concerning those material circumstances that are engaged expected secondhand against him. This bear not be exhausted a wide-ranging style, to show the charge as an absolute convention. The judge must not surpass the allowable limits.
- No accepted and broad questions search out be requested by the court that searches out be solved apiece blamed. Moreover, the blamed search should request questions having a connection with various articles of evidence and if those parts, being appropriate, were not inciting the blame, the same cannot be secondhand imminent for or against him depending on the side of the pursuit. The questions requested by the court and the answers likely for one blamed must be written in full.

### **Consequence of non-compliance with this Section.**

It turns out to be famous that section 313 is a very important portion. The disobedience of the unchanging will be a breach of the open fairness principle.<sup>6</sup> Even though the effect of the disobedience will not influence vitiating the trial, the accused must show that skilled was a collapse of justice in producing the consideration of the blamed to inculpatory material that describes welcome difficulty. However, it does not mean that each failing, mistake, or noncompliance with section 313 will influence vitiation. The scope of the wrong, failing, thus will pass away into concern while deciding whether the disobedience will cancel the trial a suggestion of correction.

The main object of this section is to present an event for the accused to talk about. The contentions of the blamed must be perceived and his insane agonies must be recognized apiece court. Accordingly, the court must discover the blame no matter what. Therefore, the supplying of Portion 3isare necessary.

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<sup>6</sup> Krishna Kumar, N., and G. Sadasivan Nair. Human Rights Violations in Police Custody. Diss. SCHOOL OF LEGAL STUDIES, 2004.

### **Inclusion of BNSS Provisions: A Comparative Perspective**

The Bharatiya Nagarik Suraksha Sanhita, 2023, which aimed at updating the Criminal Procedure Code, would modernize and replace it with provisions similar to those in Section 313 CrPC in the light of nuanced change geared towards streamlining and enhancing the process of examination of the accused. Section 311 BNSS, corresponding to Section 313 CrPC, aims at protecting the rights of the accused while ensuring that the incriminating evidence is communicated effectively.

- BNSS maintains a direct dialogue between the court and the accused, thus continuing the principle of audi alteram partem.<sup>7</sup> The provision insists that the accused be questioned in a manner comprehensible to them, with detailed explanations of the incriminating circumstances presented by the prosecution.
- **Compulsory Safeguards:** Section 311 of the Code is for the protection of the accused against being forced into self-incrimination. It restates the principle established under CrPC that no adverse inference should be drawn solely from the accused's failure to answer or provide adequate explanations during questioning.
- Unlike its predecessor, BNSS explicitly gives procedural guidelines to avoid ambiguity in its application. It requires that the questioning be done systematically and that the accused's responses be recorded verbatim to ensure accuracy and fairness in the trial process.
- BNSS provisions also introduce recording statements using digital tools, so that the statement of the accused can be made more transparently and efficiently in capturing the answers of the accused, which is more likely to end discrepancies that may arise because of manual recording and will contribute to greater accountability.

### **Case Laws**

#### **Promote Nath v. Emperor - AIR 1923 Cal 470**

In this place case, the court noticed that the object of this section and the goal of the icon search out put aside all Counsel, all pleaders, all witnesses, as well deputies so concerning call upon the blamed opposite, for one authority of the court and specify him accompanying a moment create a statement from the welcome place because the Court grant permission has the advantage of trial welcome explanation from welcome own lips.

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<sup>7</sup> Bajpai, Arushi, Akash Gupta, and Akshath Indusekhar. "Revisiting Criminal Law Bills: An In-Depth Critical Analysis of Bharatiya Nyaya Sanhita Bill and Bharatiya Nagarik Suraksha Bill." Statute Law Review 45.3 (2024): hmae043.

**Parameswaran and Others v. State of Kerala - 1989 (1) KLT 35**

It was held that the blamed concede possibility be contingent on those questions concerning differing parts of the evidence and if those parts being appropriate are not sink question contribution the blamed to present a clarification to the alike, the alike cannot be secondhand against the blamed awaiting only on the evidence of these witnesses.

**Dehal Singh v. State of Himachal Pradesh - (2010) 9 SCC 85**

In this case law, the Supreme Court noticed that the evidentiary value of the charge contained under section 313. It was grasped that the statement written by one court without executing the oath and outside the witness being cross-checked as per section 313 will not fall under section 3 of the Evidence Act.

In **Raj Kumar Singh V. State of Rajasthan - AIR 2013 SC 3150**, the court held that the accused has the right to remain silent during the examination but an adverse inference can be taken by the judge if there are circumstances pointing out that the accused is not able to initiate any explanation for the same.

**Analysis**

Examination of the accused is not just a formality that has expected acquiesced accompanying as a procedural assignment. The accused must be allowed to articulate the adverse circumstances leading to the commission of such offense. The voice of the accused is to be heard without any bias, and as a human being his contentions are to be fully dealt with one hundred percent genuineness. We have evolved to a point where we stress the importance of correcting the wrongdoer rather than punishing him. Likewise, hearing out the accused is to be treated as a remedial measure. The voice of the accused envisages the adverse circumstances of his life which cannot be ignored while imparting justice. The accused is to be questioned about each material fact separately in such a way that a normal person with a sound mind can understand the questions raised. Section 313 is that which has a dynamic nature and a wide scope for evolution. In the recent case of *Maheshwar Tigga v. State of Jharkhand*<sup>8</sup>, the court made it crystal clear that the statements made by the accused cannot be used against him. This particular section acts as a vein that pumps blood to the ever-evolving concept of Human Rights, therefore the same has to be dealt with with integrity and seriousness.

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<sup>8</sup> *Maheshwar Tigga v. State of Jharkhand - Crl Appeal No. 635 of 2020 arising out of SLP (Crl.) No. 393 of 2020.*

## **Conclusion**

Section 313 is one of the most important sections in the Code of Criminal Procedure. It gives the authority to the court to examine the accused as well as imposes a duty upon the court to provide an opportunity for the accused to speak. The intention of the lawmakers is clear. It is to uplift the principle of natural justice. That is, audi alteram partem, This Section imparts a fair, just and reasonable application of the same. It is a procedural safeguard through which the court acts. The primary object of this Section is to provide the accused with an opportunity to explain those circumstances which appear in the prosecution evidence against him. The accused should not be silenced, his circumstances and mental agonies should be heard by the court. Moreover, there should be a proper way to get in touch with the needs of the accused. Even though our legal system leans towards the administration of justice, when the accused is not given the basic right to be heard, we miserably fail in the upliftment of justice as a whole. We must discontinue the practice of such inhumane treatment towards the accused persons and treat them as a proper human being in need of help instead of treating them as a beast of vice. Following the launch of the Bharatiya Nagarik Suraksha Sanhita, issues about the accused being protected against his rights to speak up were more pronouncedly upheld. Hence, the procedures now move into aligning processual fairness in line with what humanity requires with evolving standards and benchmarks for a proper criminal justice system in India.

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