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**CHILD WITNESSES UNDER INDIAN EVIDENCE LAW: COMPETENCY,
CREDIBILITY AND JUDICIAL SAFEGUARDS**- Kaustubh Singh¹**Abstract**

Child witnesses hold a sensitive and pivotal position within criminal adjudication. Indian evidence law recognises that children can testify, yet their testimony carries inherent risks due to factors like susceptibility to influence, suggestibility, and imperfect recollection. Section 118 of the Indian Evidence Act, 1872, provides the legal framework governing child witnesses, rejecting rigid age-based restrictions and instead mandating a careful judicial assessment of the child's ability to comprehend questions and give reasoned answers. Over time, courts have supplemented the statutory framework with prudential safeguards, including preliminary competence examinations, assessment of demeanour, and careful evaluation of testimony in the absence of corroboration.

This paper provides a detailed doctrinal and case-law-based analysis of the legal principles governing both competency and credibility of child witnesses in criminal trials. It reviews landmark Supreme Court and High Court judgments to trace evolving judicial approaches towards tutoring, corroboration, and procedural lapses affecting the evidence of minors. Procedural mechanisms under the Code of Criminal Procedure, 1973, such as Section 311, are discussed only insofar as they facilitate the summoning or recall of child witnesses where such testimony is essential for delivering justice. The analysis concludes that contemporary jurisprudence seeks a balanced approach, harmonising the truth-seeking function of courts with the accused's right to a fair trial.

¹ Student at Xavier's Law School, St Xavier's University

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I. Introduction

The testimony of child witnesses constitutes one of the most delicate forms of evidence in criminal proceedings. While indispensable in many cases especially those involving offences committed in private or within the family child testimony simultaneously raises significant reliability concerns. Children, being in the process of cognitive and emotional development, are particularly impressionable and vulnerable to external influence. Consequently, judicial scrutiny becomes critical when evaluating the reliability and probative value of their statements.

Section 118 of the Indian Evidence Act, 1872, provides the statutory foundation for assessing competency of child witnesses. This section does not exclude children based on age; instead, it entrusts courts with the responsibility of determining whether the child has the necessary mental capacity to understand the questions posed and furnish rational responses.² Judicial interpretation consistently emphasises that competency hinges on intellectual and emotional maturity rather than chronological age. To operationalise these standards, courts have evolved several safeguards, including preliminary assessments, observation of demeanour, and the prudential requirement of corroboration in cases that warrant heightened caution.

Procedural provisions under the Code of Criminal Procedure, 1973, occasionally intersect with the law concerning child witnesses. Section 311 empowers courts to summon or recall witnesses if their evidence is deemed indispensable to the proper adjudication of a case.¹ Nonetheless, this procedural power serves only as a facilitative measure and does not substitute or weaken the substantive standards governing the evaluation of child testimony. This paper centres child witnesses within the doctrinal landscape, analysing how Indian courts ensure both competency and credibility while maintaining procedural integrity.

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II. Competency of Child Witnesses under Section 118 of the Evidence Act

Section 118 establishes a presumption of competency for all witnesses, including minors, subject to judicial evaluation of the individual's capacity to comprehend questions and provide rational answers.² Importantly, no specific age threshold is prescribed. A child witness is not automatically deemed incompetent solely because of tender age. The critical inquiry is whether the witness possesses sufficient intelligence to understand the importance of telling the truth and the nature of the questions posed.

Courts have emphasised that prior to recording a child's testimony, judges must conduct a preliminary examination to assess the witness's competence. This examination is not a mere procedural formality; rather, it requires careful attention to the questions asked, the child's responses, and the trial court's observations of demeanour, comprehension, and voluntariness. The absence of a thorough preliminary assessment can undermine the reliability of testimony and prejudice the accused.³

In *State of Madhya Pradesh v. Balveer Singh*, the Supreme Court clarified that although child witnesses are competent to testify, the court must ensure that their testimony is voluntary, coherent, and uninfluenced by coaching or external pressure.⁴ The Court further explained that corroboration, while desirable, is not an absolute requirement; it is a rule of prudence to be applied depending on the circumstances of each case.

III. Credibility, Tutoring, and Corroboration

The principal concern in the evaluation of child testimony lies not in competency but in credibility. Children are inherently suggestible and may unintentionally reproduce narratives supplied by parents, police, or other interested parties. Courts, therefore, approach such testimony with caution, particularly when the child has been in the prolonged custody of parties with a vested interest in the case outcome.

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In *Pradeep v. State of Haryana*, the Supreme Court warned against uncritical reliance on the testimony of minor witnesses whose narratives display inconsistencies or apparent improvements over time.⁵ The Court held that the absence of a meaningful preliminary examination severely undermined the evidentiary value of the testimony. Similarly, in *Manvir @ Manish v. State*, the Delhi High Court stressed that while child testimony may form the basis for conviction, it must be free from coaching and supported by circumstantial or corroborative evidence wherever doubts exist.⁶

Judicial authorities have clarified that corroboration is not universally mandatory in cases involving child witnesses. Where testimony is spontaneous, consistent, and reliable, and where the court has satisfactorily assessed competence and demeanour, conviction may safely rest on the child's evidence alone. This approach underscores the courts' pragmatic and case-specific evaluation rather than rigid formalism.

IV. Belated Examination of Child Witnesses and Procedural Caution

The introduction of child witnesses at later stages of trial raises additional concerns about memory distortion, external influence, and investigative lapses. Applications to summon or recall child witnesses under Section 311 CrPC are, therefore, subject to heightened judicial scrutiny.¹ The law permits this only where the evidence is indispensable for a just determination of the case and cannot be otherwise obtained.

In *Mayankumar Natwarlal Kankana Patel v. State of Gujarat*, the Supreme Court disapproved the belated examination of a child witness after the trial had substantially progressed.⁷ The Court observed that the witness was neither identified in the First Information Report nor during the investigation, and allowing her testimony would have amounted to filling gaps in the prosecution's case. This ruling highlights that procedural powers cannot be used to remedy investigative deficiencies, particularly when the witness is vulnerable.

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V. Reliance on Child Testimony by Courts

Judicial caution does not imply rejection of child testimony in its entirety. Courts may rely on such evidence when competency and credibility are satisfactorily established and when the testimony withstands cross-examination. In *Ganesh Balai v. State of Madhya Pradesh*, the High Court affirmed conviction based on a child witness whose statements were consistent and corroborated by medical and circumstantial evidence.⁸ Similarly, *Sukhiram Nishad v. State of Chhattisgarh* relied upon child eyewitness testimony after ruling out coaching and verifying demeanour.⁹

In *Suku Hembram v. State of West Bengal*, the Calcutta High Court emphasised that natural conduct and spontaneous reactions of child witnesses can substantiate their credibility, even in the absence of extensive corroboration.¹⁰ This demonstrates judicial recognition of the nuanced ways in which child testimony may convey truth.

VI. Procedural Lapses and Their Impact

Courts have consistently held that non-compliance with procedural safeguards for child witnesses can materially affect the weight of their testimony. In *Sh. Laldingluaia v. State of Mizoram*, the Gauhati High Court observed that the failure to conduct a preliminary assessment of a six-year-old witness resulted in prejudice to the accused and necessitated judicial intervention.¹¹ Mechanical or cursory assessments are regarded as insufficient and may compromise the fairness of the trial.

These decisions reinforce that procedural safeguards are substantive protections rather than mere formalities, and their violation can diminish the evidentiary value of child testimony.

VII. Balancing Truth-Finding and Fair Trial Rights

The jurisprudence concerning child witnesses reflects a careful balancing act between the courts' duty to uncover the truth and the accused's right to a fair trial. Courts remain committed to

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assessing the reliability of child testimony while ensuring that procedural discretion under powers such as Section 311 CrPC is exercised judiciously, preventing arbitrariness or abuse. This approach exemplifies a child-sensitive, rights-conscious model of criminal adjudication.

VIII. Conclusion

Indian courts have developed a refined and principled framework for evaluating the testimony of child witnesses. By anchoring admissibility in Section 118 of the Evidence Act and applying heightened scrutiny to credibility, the judiciary has avoided both uncritical acceptance and wholesale rejection of child testimony. Procedural powers under the CrPC operate only in a supportive capacity, constrained by the indispensability of evidence.

The contemporary judicial approach reflects a delicate calibration between the necessity of evidence and procedural fairness. By insisting on meaningful preliminary examinations, vigilance against tutoring, and restrained procedural intervention, courts have created a child-sensitive model that strengthens the integrity of criminal adjudication while safeguarding the rights of all parties.

Footnotes

1. Code of Criminal Procedure, 1973, § 311.
2. Indian Evidence Act, 1872, § 118.
3. State of Madhya Pradesh v. Balveer Singh, (2025) INSC 261.
4. Id.
5. Pradeep v. State of Haryana, AIR 2023 SC 3245.
6. Manvir @ Manish v. State, CRL.A. 1056/2019 (Del. HC).
7. Mayankkumar Natwarlal Kankana Patel v. State of Gujarat, (2025) INSC.
8. Ganesh Balai v. State of Madhya Pradesh, (M.P. HC).
9. Sukhiram Nishad v. State of Chhattisgarh, (Chh. HC).
10. Suku Hembram v. State of West Bengal, (Cal. HC).
11. Sh. Laldingluaia v. State of Mizoram, CRL.A(J)/2/2024 (Gau. HC).

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