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SUGGESTIONS IN CROSS EXAMINATION

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The Role of Suggestions in Cross-Examination

Cross-examination is often seen only as an exercise of asking questions. But in reality, **suggestions** (also known as *putting your case to the witness*) are equally crucial. They form the very backbone of how the defence theory is preserved for argument. Courts have repeatedly stressed that without suggestions, the defence cannot rely on its own case during final submissions.

Why Suggestions Matter

- **Rule of Fairness (Supreme Court):** The Hon'ble Supreme Court has held that fairness requires the opposite party to be confronted with the defence version. If you do not suggest, the court may reject later arguments as “afterthoughts.”
- **Foundation for Defence:** Suggestions provide the link

between cross-examination and final arguments. They ensure the defence is not treated as abandoned.

- **Testing the Witness:** By putting suggestions like “I put it to you that your complaint is false,” you directly challenge credibility.
- **Avoiding Waiver:** Courts often hold that absence of suggestions = implied admission.

How Suggestions Differ from Questions

- **Questions** → Seek answers, facts, and admissions.
- **Suggestions** → Place the defence version before the witness. The denial itself is useful because it records the witness’s stance.

Practical Roles of Suggestions

- **Contradicting Allegations**

- *“I put it to you that you never resided in the shared household after 2018.”*

- **Presenting Defence Theory**

- *“I put it to you that you filed this complaint only after receiving divorce summons.”*

- **Challenging Medical/Documentary Evidence**

- *“I put it to you that the medical report is fabricated.”*

- **Highlighting Motive or Enmity**

- *“I put it to you that you are deposing falsely under the influence of your relatives.”*

- **Testing Financial Claims**

- *“I put it to you that you are employed and earn ₹40,000 per month.”*

Supreme Court on the Necessity of Suggestions

- **Sarwan Singh v. State of Punjab, AIR 1976 SC 2304**
 - The Court held that “whenever the opponent has declined to put his case in cross-examination, it must follow that the evidence tendered on that issue ought to be accepted.”
- **State of U.P. v. Nahar Singh, (1998) 3 SCC 561**
 - The Court emphasized that failure to give suggestions amounts to acceptance of the witness’s version.
- **Rajinder Pershad v. Darshana Devi, (2001) 7 SCC 69**
 - The Court reiterated that unless a party puts its case to the witness, it cannot rely on a contradictory defence later.
- **Laxmibai v. Bhagwantbuva, (2013) 4 SCC 97**
 - It was observed that “the law requires putting one’s case to the witness, failing which the court will presume that the witness’s account is accepted.”

Common Mistakes by Young Lawyers

- Focusing only on “trick questions” and skipping suggestions.
- Assuming that pleadings alone are enough — without suggestions, pleadings lose value.
- Making suggestions too vague, rather than precise and pointed.
- Forgetting to tie suggestions with written statements and affidavits.

Tips for Effective Suggestions

- **Be Direct & Specific:** Suggestions should be short, crisp, and targeted.
- **Link with Defence:** Every major point of defence must be put as a suggestion.

- **Strategic Placement:** Save crucial suggestions for the end for maximum impact.
 - **Record Denial:** Even a denial strengthens your right to argue.
 - **Practice Drafting:** Always prepare suggestions along with your cross-exam questions.
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Conclusion

Suggestions are **not optional**; they are essential. Where questions uncover facts, **suggestions safeguard the defence**. As the Supreme Court repeatedly reminds us, *if you don't put it, you can't argue it.*

DIFFERENCE BETWEEN CROSS-EXAMINATION AND SUGGESTIONS

Aspect	Cross-Examination	Suggestions
Purpose	To test the truthfulness, accuracy, and credibility of the witness.	To put the defence version before the witness and preserve it for argument.
Nature	Questions seeking facts, admissions, or contradictions.	Statements framed as assertions (e.g., “ <i>I put it to you that...</i> ”) rather than questions.
Answer Expected	Witness must answer factually (Yes/No/Explanation).	Usually answered with denial, but denial itself is useful.
Legal Rule	Governed by Sections 137–138 of the Indian Evidence Act.	Based on the rule of fairness: <i>If you don't put your case, you cannot</i>

		<i>argue it later.</i>
Court's View	Absence of effective cross-exam may weaken defence.	Absence of suggestions = deemed acceptance of opponent's version (as per <i>Sarwan Singh, Laxmibai</i>).
When Used	Throughout cross-exam, focusing on disputed facts.	At crucial points, to challenge allegations or present defence theory.
Example	Q: "Did you file any police complaint immediately after the alleged incident?"	Suggestion: "I put it to you that you never made any complaint because no such incident occurred."
Risk of	You may miss contradictions	You lose the right to

Omission	or admissions.	argue your defence theory in final arguments.
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