THE ultimate object of the criminal justice system being the protection of society and preservation of the moral values, an appropriate choice of the justice system alone is the answer to the problem of prevention and control both, of the crime. During ancient times, in the East particularly, religion and high morality served as complementary factors in extracting the truth and dispensation of justice.

In the western world through non-rational, semi-rational and rational methods, two distinct systems, that is, Common Law and Civil Law systems emerged. Anglo-American system, an offshoot of the Common Law system, adopted the adversary-accusatorial method of trial, which, more or less, is like a forensic duel under the belief that truth is best discovered by powerful statements on both sides of the question by adversary counsel, the Judge merely functioning as an impartial referee or umpire.

Under both the systems, guilt was required to be established by discharging the requisite burden of proof by the State in recognition of the celebrated doctrine of PRESUMPTION OF INNOCENCE. But the trend prior to the pronouncement in Woolmington v. Director of Public Prosecutions (1935) A.C. 462, of shifting this burden to the side of defence did prevail. The STANDARD OF PROOF distinguishable from both the doctrines of PRESUMPTION OF
INNOCENCE and BURDEN OF PROOF had to be chosen and prescribed in exercise of practical wisdom and experience.

The doctrine of BENEFIT OF REASONABLE DOUBT, representing the highest extreme on the range of probability that serves as a basis for decision-making, essentially of Western origin, shot into prominence only with the pronouncement in the famous case of Woolmington supra. Prior to that the Law of Evidence in Anglo-American as well as European countries was in a fluid state. The Courts laboured under the proposition advocated by Sir Michael Foster in his Treatise "Introduction to the Discourse of Homicide, wherein the accused too was required to prove at a particular stage in the course of the trial, after the prosecution succeeded in establishing the act amounting to homicide against him, that the offence he was presumed to have committed, being something other than the one claimed by the prosecution. This view was set right by the House of Lords in Woolmington's case ruling that the burden to prove all the ingredients of the offence was required to be borne and discharged by the State and that it never shifted to the side of the defence. This doctrine received a set back around the year 1950 under the leadership of Lord Goddard disapproving the very phrase BENEFIT OF REASONABLE DOUBT from being referred to while charging the Jury. It was canvassed that the phrase was, besides being incapable of being defined and understood,
contributed more to the confusion than clarity. But then, the later decisions gave a green signal to the re-entry of this doctrine in the Anglo-American Law.

A glance at the history of deployment of this doctrine in our country would reveal that the Courts in India have been the victims of similar confusion, both during and after the abolition of the Jury system. Instances are not few when we come across cases where the very soul of the doctrine contained in the word REASONABLE missing from the expression. In fact, the doctrine is incomplete, imperfect and rather inapplicable under the Anglo-American system even, without the word REASONABLE having been incorporated in it. Mere benefit of doubt is incongruous a proposition. The injustice flowing from such faulty application of the doctrine is not unimaginable.

Incidentally, we have a codified Law of Evidence in our country. The Indian Evidence Act, 1872, was eminently drafted by Sir James Stephen when the Law of Evidence elsewhere in the Anglo-American countries was not that settled. He adopted and prescribed a different standard of proof altogether, bearing no shade even of the doctrines like the one under examination. The standard he prescribed is based on the BELIEF created in the mind of the Court after considering the matters before it as to the existence of a fact. It has been further equated with the supposition
on the part of a prudent man to act while considering the existence of such a fact under the circumstances of a particular case, so probable.

Occasions did arise in the Indian Courts raising doubts about the application and free access to the doctrine of BENEFIT OF REASONABLE DOUBT, and the opinions of various High Courts and the Supreme Court are divided. In any case, there was considerable hesitation in following and applying the Anglo-American principles while interpreting the Act. Particularly, the dissenting voice raised by the English Judges/presiding over the Indian Courts, it is important to note, was not heeded to. In the result, the scope of the application of this principle was so widened and liberalised that the prosecution fell short to bring the guilt home to the accused in most of the cases.

The injustice arising out of this higher standard of proof applied in criminal cases appears to have been sensed and agitated against particularly in the cases of offences against the women in India. The Criminal Law Amendment Act, 1983 (No.43 of 1983) proposing amendments in the Indian Penal Code, Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, has, in effect, relieved the prosecution of the higher standard of proof to be produced by equipping it amongst other things with a presumption incorporated in Section 114-A of
of the Indian Evidence Act. Similarly, through another amendment, incidentally of the same date, the Parliament, by inserting a new section being Section 113-A in the Indian Evidence Act, 1872, has placed the prosecution in a position to avail of the benefit of another presumption making it less burdensome and easier to establish the newly enlisted offence of cruelty under Section 498-A of the Indian Penal Code. What does it indicate?

The necessity to reshape the Penal Law and the procedures thereto has arisen out of the disharmony creating a big gap between a reasonable possibility of proving the offence by leading all available evidence and the requirement of a higher standard of proof and therefore a stricter scrutiny in the matter of determining the truth and application of law both in our Criminal Courts. Many more amendments of this type are likely to be sought in future, if necessary steps are not taken well in time.

The real answer and a proper solution does not lie in such a patching up process; instead the solution lies in setting the interpretation regarding the standard of proof applicable in the scrutiny of evidence in a criminal case, right. The present shade of interpretation of the provisions of Section 3 of the Indian Evidence Act, which, in very clear terms, prescribe the requisite standard of proof, only one standard of proof, for holding the fact proved, disproved or not proved in all cases,
civil and criminal in the light and with the help of the principles of the Anglo-American Law, shall have to be removed as to make the Courts follow the appropriate standard as to keep themselves within a reasonable range in the matter of demanding and applying a proper standard of proof, thus, preventing the injustice being caused to and felt by the people, the real consumers of the law and justice.

The present thesis, thus, makes a humble attempt to draw the attention of one and all from the concerned that the procedural Law of Evidence in India deserves to be set right by eliminating the influence of the principles of Anglo-American Law on it, without entering into the larger controversy about the validity of the doctrine itself.

In the end this study places me in a position to propose and state that the doctrine of BENEFIT OF REASONABLE DOUBT is neither applicable, nor suitable to the procedures of criminal trials in India.