
CONFESSION AND ITS RELEVANCE IN THE INDIAN EVIDENCE ACT

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ABSTRACT

The aim of this paper presentation is to provide detailed analysis on the topic confession. Confessions are relevant facts which are recognized under Indian evidence Act, 1872. Sections 24 to 30 of the Indian Evidence Act, 1872 govern the treatment of confessions. Unlike other forms of admittance, confessions are only used in criminal proceedings, and they are also a kind of confession. "All confessions are admissions, but all admissions are not confessions" is a common saying. An extra-judicial confession is one that is given to an administrative officer of the village rather than to an official of the judiciary, and this kind of confession is termed judicial confession, since it is recorded by the magistrate. The aforementioned admission must be made voluntarily and voluntarily. Section 24 of the Indian Evidence Act, 1872, states that a confession given by an accused in a criminal case is immaterial if it is the result of any incentive, threat, or promise. If an accused confesses to a police officer or confesses to anybody else while in custody of a police officer, this legislation prohibits such confession. There is a provision in this statute that allows for a joint trial of all co-accused, subject to specific requirements set out in section 30 of the Act. Taking back the words of confession, i.e., retracting confession, is a violation of the law. The above is the overview of this paper presentation which is discussed under separate topics with relevant case laws mentioned under Indian Evidence Act, 1872.

Keywords: Confession, Evidence, Relevance of confession, Section 24, Section 30, Magistrate, Retracted Confession, Co-accused

INTRODUCTION

We all know that all the facts which are so connected with the facts in issue that may make facts in issue existing or non-existing are called Relevant facts. Whether or whether a piece of evidence is relevant is a matter for the judge to determine. Even if a defendant does not object, the courts in India are obligated to throw out extraneous material. Sections 6 to 55 of the Indian Evidence Act, 1872, acknowledge certain essential facts. According to Sections 24 to 30 of the Indian Evidence Act, 1872, a confession comes within this category. Criminal situations are the only ones in which the word "confession" is used. The admissions that people make in confessions are unique. Thus, it is popularly said that "all confessions are admissions but all admissions are not confessions". Section 24 to 30 deals with confessions. Let's discuss about the confessions in detail with relevant case laws related to it in below topics.

MEANING OF CONFESSION

A "confession" is an admission of guilt. The term "confession" refers to any acknowledgment made by the defendant in a criminal proceeding. When an accused person confesses to committing a crime or admitting guilt in front of a police officer, it is known as a confession. A confession is a statement made by a person who has been accused of a crime. An official or non-official may make the remark to anybody outside the courtroom or to anyone in court throughout the course of judicial procedures. It is a significant piece of evidence.

DEFINITION

There is no definition for the phrase confession. According to Justice Stephen, a confession is "admission made at any moment" by someone accused with an offense, expressing or indicating an inference that he or she has done the offense. Section 24 is where it first occurs. Section 24 of the Indian Evidence Act, 1872 states that a confession obtained via coercion, intimidation, or promise is irrelevant and cannot be used against the accused. Section 24 is the general norm that confessions must be voluntary, without any incentive, threat, or promise of any kind.

RELEVANCY OF CONFESSION

Relevancy of confession is classified into two,

1. Confession when not relevant - Sections 24, 25, and 26 of the Indian Evidence Act, 1872 state when a confession is no longer relevant or admissible.

2. Confession when relevant - Sections 27, 28, and 29 of the Indian Evidence Act, 1872 define scenarios in which confessions are relevant and admissible.

SECTION 24 OF THE INDIAN EVIDENCE ACT, 1872

- Section 24 of the Indian Evidence Act of 1872 states that a confession must be made freely and voluntarily in order to be acceptable in court.
- Remorse and the desire to apologies for the offense make it permissible.
- It does not matter whether an accused makes a confession in a criminal case because it was induced, threatened, or promised something.

ESSENTIAL INGREDIENTS OF CONFESSION

1. It must be made only by the accused or a person charged with a crime
2. It must be a voluntary statement
3. It must be before magistrate or another person
4. It must be without inducement, threat or promise
5. It must be taken as whole and not in part
6. It must be a statement either oral or documentary

PAKALA NARAYANASWAMI VS EMPEROR, AIR (26) 1999 PC 47¹, In order to be acceptable under the Indian evidence statute of 1872, a confession must either acknowledge the crime or at the very least include a large number of the facts that make up the crime. No matter how damning the facts may be, admitting them does not constitute an admission of guilt.

EXAMPLE FOR CONFESSION

A is charged with the murder of B. If A said that he had killed B, it is a confession or confessional statement by A.

CONFESSION RECORDED BY POLICE OFFICER

1. According to section 25 of the act, no confession made to a police officer shall be proved

¹ “Legitquest” (*legitquest*) <<https://www.legitquest.com/case/pakala-narayana-swami-v-the-king-emperor/11E361>> accessed April 18, 2022

against a person accused of any offence.

2. Simply says that confession made to police officer is inadmissible under the act
3. A confession under section 25 may be a statement directly made to a police officer orally or in writing or indirectly made to such police officer.
4. A confession to the police cannot be used for corroboration also.
5. If a confession before the police was considered to be valid then the fundamental rights would also be violated.
6. Article 20(3) of the constitution of India protects the accused against self-incrimination. so, the accused cannot be compelled to admit or accept his guilt.

CONFESSION OF ACCUSED WHILE IN POLICE CUSTODY IS IRRELEVANT

1. When an accused individual is in the custody of a police officer, his or her statements to anybody at that time are protected under Section 26.
2. It is possible for police officials to coerce suspects into making a confession by any undue influence they get in evidence against them while they are in custody.
3. According to Section 26, which was enacted to guard against police misconduct, confessions made by people who are being held in prison cannot be used against them unless they are given in front of a court. R VS JAGIA, AIR 1938 Pat.308², A woman was tried for the murder of a boy. The woman was arrested by the village chowkidar. She was tied to a tree, then the chowkidar leaving the accused in the company of another, went to the town to report the matter in the police station. During the absence of chowkidar the accused made a confession to that person. It has been held that the confession is to be irrelevant because it was deemed to have been made while she was in the police custody.

CONFESSION RECORDED BY JUDICIAL MAGISTRATE OR JUDICIAL CONFESSION

1. It is referred to as a judicial confession when a confession is made before a judicial judge and then recorded by that magistrate.

² (Law of evidence - chapter 3 - admissions and Confessions)

<<http://student.manupatra.com/Academic/Abk/Law-of-Evidence/Chapter3.htm>> accessed April 18, 2022

2. Courtroom confessions are those in which an individual confesses before a judge or magistrate.
3. In order for a confession to be legally binding, it must be recorded by a judge rather than a police officer.
4. The judicial confession is governed under Cr.PC section 164. Before the trial starts, an accused person may confess his or her guilt to the magistrate, who may record it in line with the requirements of section 164 of the Cr.PC, during the committal procedures before the magistrate or during the trial before the sessions judge.
5. A confession that is made outside of the courtroom is known as an extrajudicial confession.
6. If someone confesses to a crime in court, they might be found guilty of it. It is encapsulated in two Latin maxims, namely:
 - Confession in judicio omni probatione major est - As a result, a defendant's confession in a court of law has higher weight than any other piece of evidence.
 - Confessio facta in judicio est plena probatio - It means confession is the absolute proof.

STATE OF ASSAM VS ANUPAM DAS, 2008 CriLJ 1276, 2007 (3) GLT 697³, Executive magistrates are not included in the definition of "magistrate," since the term refers solely to judicial magistrates. BHARAT VS STATE OF U.P, (1972) SCC (Cri) 198, If the court is convinced that the admissions are voluntary and truthful, it has been decided that they may be used against the defendant.

EXTRA JUDICIAL CONFESSION

- Confession recorded other than judicial magistrate is called Extra - judicial confession
- An administrative official in the hamlet receives an extrajudicial confession.
- This includes judicial officers who are acting in their personal capacity as well as those who are acting in their official position. As a result, a confession made outside of court is treated strictly as an admission. In addition to other evidence, an extrajudicial confession might be taken into account. However, the accused cannot be found guilty based on an Extra-judicial confession.

³ "Legitquest" (*legitquest*) <<https://www.legitquest.com/case/state-of-assam-v-anupam-das/1E3F09>> accessed April 18, 2022

SAHADEVAN AND ANOTHER VS STATE OF TAMIL NADU, (2012) 6 SCC 403⁴, Extrajudicial confessions have been deemed inadmissible as evidence. It is necessary for the court to confirm that the evidence is credible and supported by additional evidence from the prosecution before taking any action on it.

CONFESSION OF CO-ACCUSED

We know that the term Confession is an Admission which is made in a Criminal case. When we talk about this concept of Confession of Co-Accused, in some cases there might not be just one accused present in a case, there can even be some crimes which can be committed jointly. Which means that either 2 or more members jointly had committed the crime together. So, when a greater number of persons are charged for the same crime, then few things have to be proved in order to achieve the concept of Confession of Co-Accused. The things which have to be proved are as follows -

1. All the Co-Accused together must be tried Jointly. It means that the Accused must not be tried Independently. All of the Accused will be tried Jointly.
2. Secondly, all these Accused must be tried for the same Crime which they have committed.
3. Lastly, all the Accused must be tried for the Same offence at the same court. Suppose if they are tried in different courts, then the Principle of Confession of Co-Accused is not basically Applicable. So, it must essentially be tried in the same Court of Law. When all these Conditions are satisfied, then the Principle of Confession of Co-Accused is basically applied and achieved.

RETRACTED CONFESSION

Retracted Confession⁵ is one of the Important topics that is discussed under the concept of Confession. It is that concept that can be said as when a criminal is charged for the commission of a particular crime, even before he is tried for the crime, the particular criminal would actually make a Confession statement. If the criminal makes a Confession statement before he is being tried for the crime, then that statement of Confession can actually be considered. When the trial begins after obtaining the Confession statement, then that trial is a valid trial. but in this situation, there can even be a twist from the Accused side. That is when the Criminal is being

⁴ "Legitquest" (*legitquest*) <<https://www.legitquest.com/case/v-sahadevan-v-state-of-tamilnadu-and-others/C1CC2>> accessed April 18, 2022

⁵ "What Is Retracted Confession in the Indian Evidence Act?" (*WritingLaw* August 13, 2021) <<https://www.writinglaw.com/what-is-retracted-confession/>> accessed April 18, 2022

tried after obtaining his Confession statement, at some point of time, the criminal might Take Back the statement which he/she told or there can even be a situation where the Criminal can prove that that particular Confession statement which was given by them was Not made by them. This is the Concept of Retracted Confession.

CONCLUSION

Now we can clearly understand the concept of Confession. Usually, Admission and Confession are two main concepts which run parallelly and usually these two terms are most often interchangeably used and their concepts and mechanisms are normally confusing. Now we can clearly understand the concept of Confession.

Confession in reference to the Indian Evidence Act is an exhaustive concept. There a multiple-concepts which are enshrined under the topic of confession. The article has tried to summarize the whole concept of Confession in general and its multiple facets which are applicable in common law.