

Law Relating To Relevancy and Admissibility of Confessions

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I. INTRODUCTION

Sections 6 to 55 of the Act deal with the relevancy of facts.²The terms Relevancy and admissibility are often taken to be a synonymous but both terms 'Relevancy and admissibility' are not interchangeable. A fact may be legally relevant yet its reception may be prohibited on the grounds of public policy. Therefore, every relevant fact is not necessarily admissible. Similarly, every admissible fact is not necessarily relevant within sections 6 to 55 of the Act.

The term 'confession' is nowhere defined in the Indian Evidence Act. The word 'confession' appears for the first time in section 24 of the Indian Evidence Act. All the provisions relating to 'confession' comes under the heading of 'admission'. So it is clear that the confessions are merely species of admission.

The definition of the 'admission' as given in section 17 becomes applicable to confession also. Section 17 defines 'admission' as a statement oral or documentary, which suggest any inference as to any fact in issue or relevant fact.³ If such statement is made by a party to a civil proceeding it will be called an "admission" and if it is made by a party charged with a crime it will be called a "confession".⁴

Confession is a statement by an accused suggesting that he committed the crime charged against him. A statement must contain specific admission of guilt or all the facts which constitute the crime in order it to be considered as confession. A statement of an accused will amount to a confession if it satisfies the following conditions:⁵

1. The accused must admit that he had committed the crime.
2. The statement must indicate his involvement in the crime.
3. It should not be made on inducement, threat, and promise.

Justice Stephen in his Digest of the Law of Evidence defines confession, "a confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime."

Lord Atkin observed in the case of **Pakala Narayan Swami v. Emperor**⁶: "A confession must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence." An admission of a gravely incriminating fact, even a conclusively incriminating fact, is not in itself a confession. One of the main difference between the definition of admission and confession would be that a statement which may not amount to a confession, it may still relevant as an admission.

The Supreme Court approved the Privy Council⁷ decision in **Palvinder Kaur v. State of Punjab**⁸ over scores: that the definition of confession is that it must either admit the guilt in terms or admit substantially all the facts which constitute the offence.

In **Nishi Kant Jha v State of Bihar**⁹, the Supreme Court highlighted that there is no wrong on relying some part of statements confessed by the accused and neglecting the other part, the court has traced out this

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² The word 'relevant' is defined in section 3 of the Act as "one fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of the Act relating to relevancy of facts."

³ Dr. Avtar Singh, Principles of the Law of Evidence, Central Law Publications, Allahabad, ed.2018.

⁴ Ibid.

⁵ Available at <https://www.lawyersclubindia.com/articles/Confession-under-the-Indian-Evidence-Act--11111.asp> assessed on 13 May s2020.

⁶ AIR 1939 P.C. 47, supra note 2

⁷ Pakala Narayan Swami v. Emperor.

⁸ AIR 1952 SC 354.

⁹ Available at <https://blog.ipleaders.in/confessions-under-the-indian-evidence-act/> assessed on 14 May 2020

concept from English Law and when court in its capacity understood that it has enough evidence to neglect the exculpatory part of the confession, then it may rely on the inculpatory part such confession.

A confession is a kind of admission. It is such a relevant, but under certain circumstances is declared to be irrelevant, as under section 24 when it is caused by inducement, threat or promise. Thus, section 24 enacts a rule of exclusion to the relevancy of confession. It is a rule of policy.¹⁰ In India, the substantive law of confession is contained in Sections 24 to 30 of the Evidence Act. Sections 24 to 26 lay down when confessions are not relevant, i.e. provable. While sections 27 to 29 are limitations to their operations. Section 24 excludes confessions obtained by inducement etc. irrelevant. Section 25 bars all the confessions made to police officers under any circumstance (subject to the provision of section 27), whether voluntary or involuntary, while under section 26 shuts out the confession made in police custody, except those made in the presence of a magistrate. Section 30 deals with the admissibility of confession of a co-accused jointly tried with the accused.¹¹ Confessions can be oral or written.

Kinds of Confessions

Confessions are of **two** kinds: **Judicial and extra-judicial confessions.**

1. Judicial confessions are those confessions which are made to and recorded by judicial magistrate under sec. 164 of Criminal Procedure Code or in the court in due course of legal proceedings. It is also called **Formal confession.**

2. Extra-judicial confessions are those confessions which are made by the accused person elsewhere than before magistrate or in the court. It is also called **informal confession.** For example-Confessions made to private persons, to police officers or to the judicial officers in their private capacity.¹²

In the case of **C.K. Ravendram v. State of Kerala**¹³, it was held by the SC that a person confesses to the commission of an offense, the same can be used in the Court against him or her for the crime for which he made the confession, but it must have been willingly done.

The confession is direct acceptance of guilt by a suspect of commission of the offence. In **State v. NavjotSindhu**¹⁴ the Apex Court detected that “confessions are considered highly reliable because no rational person would make an admission against himself unless prompted by his conscience to tell the truth”.

Evidentiary value of confessions:

Confession whether it is judicial or extra-judicial, must be clear and unambiguous. The judicial confessions of an accused is good evidence and he can be convicted on the strength of it. Law does not require that a confession must be corroborated before it can be acted upon. It is duty of the court whether it believes a confession or not. Therefore, the court must apply doubt test¹⁵:

1. Whether the confession was voluntary?
2. If so, whether it is true or trust-worthy.

Satisfaction of the first test is a sine qua non for its admissibility in evidence. Other than judicial confession must be adjudicated in the circumstances of each case.¹⁶

Retracted Confessions

A confession is called retracted confession when it is withdrawn by the maker at the time of trial before passing of sentence against him¹⁷. In simple words, “*A retracted confession is a statement made by an accused person before trial begins by which he admits to have committed the offence, but he repudiates it at trial*”¹⁸. The Indian Evidence Act makes no distinction between retracted confession and un-retracted confession. Both are equally admissible and may be taken into consideration against the accused. The SC held in the case of **PyareLalVs. State of Rajasthan**¹⁹ that a retracted form of confession can form the basis of a conviction if the court is satisfied that it was true and made voluntary.

¹⁰ CJ M. Monir, Textbook on the Law of Evidence, Universal Law Publishing Co. New Delhi.

¹¹ Ibid.

¹² G.S. Pande, *Indian Evidence Act*, 103, Allahabad Law Agency, Faridabad, 2002.

¹³ AIR 2000SC

¹⁴ AIR 2005 SCC 600

¹⁵ ibid

¹⁶ M. Munir, *The Law of Evidence*, 105, Universal Law Publisher Delhi 2011.

¹⁷ Supra note 9.

¹⁸ BatukLal, *Law of Evidence*, 125, Central Law Agency, Allahabad, 2006.

¹⁹ AIR 1963SC 1094.

The Constitutional Validity of the Sec. 24-30

A controversy stands up that whether this section comes under the Article 20[3] or not. According to Article 20(3) of the Constitution of India that “No person accused of any offence shall be compelled to be a witness against himself”.

This question was also decided by the Apex Court in **State of Bombay v. KathiKalluOghad**²⁰ and decided that the recovery in the consequence declaration acceptable under section 27 of Indian Law of Evidence Act are not inside the embargo of Article 20[3] except force has been used in obtaining the evidence.

Difference between Confession and Admission²¹

S. No.	Confession ²²	Admission ²³
1.	The confession is something which is made by the person who is charged with any criminal offences and such statements may infer any reasoning for concluding or suggesting that he is guilty of a crime.	When any person voluntarily acknowledges the existence of any facts in issue or facts.
2.	The concept of confession usually deals with the criminal proceedings and there is no such specific section defining confession.	The concept of admission usually deals with the civil proceedings and section 17 specifically deal with the definition of admission.
3.	If the confessions are purposefully and are made on someone's own will then it may be accepted as conclusive of the facts confessed by the confessor.	Admissions may be operated as estoppels because they are not conclusive as to the facts admitted by the person who in his statement admit some facts.
4.	Confessions are always used or go against the confessor of the statements.	Admissions may be used with respect to the person who has admitted any facts or statements under the exception of Section 21 of the Indian Evidence Act.
5.	Confessions confessed by more than one person jointly for the same offence can be considered against other accused of the same crime under Section 30 of the Indian Evidence Act.	As it is previously observed that admission cannot be used against the person who is admitting the facts by any statements as they don't have much probative evidentiary value. Hence the admission made by the different personalities of the same suit cannot be used as evidence against other persons.
6.	Confession is the direct admission of matter or facts of the cases either in the form of a written or oral statement.	Admission gives the conclusion about the liability of the person who is admitting any facts or matter either in the form of oral or written statements.

II. CONCLUSION

Confession is a significant provision of Indian Law of Evidence in criminal proceeding and its reality can be proved in a specific case which is in question. Confession is admission but admission cannot always be called confession. Sometimes they overlap but they are distinct. A confession must be made voluntarily by the suspect.

Dr. Seema Rani. “Law Relating To Relevancy and Admissibility of Confessions.” *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 25(6), 2020, pp. 05-07.

²⁰ AIR 1961 SC1808. Mohammed Ajmal Mohammed Amir Kasab v. State of Maharashtra, 2012 (4) RCR (Criminal) SC.

²¹ Available at <https://blog.ipleaders.in/confessions-under-the-indian-evidence-act/> assessed on 12 May 2020

²² Ibid

²³ Supra note 20