

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 4

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

An Analysis on the Admission and Confession in the Indian Evidence Act

EKANANDANAYAKA S.¹

ABSTRACT

Admissions and confessions hold paramount importance in the Indian legal system as they serve as vital pieces of evidence that can significantly influence the outcome of a criminal trial. This research paper delves into the complexities of admissions and confessions in Indian evidence law, aiming to provide a comprehensive analysis of their relevance, admissibility, and potential procedural pitfalls.

Moreover, the paper critically evaluates the admissibility criteria for both admissions and confessions, exploring the constitutional provisions, relevant sections of the Indian Evidence Act, and their alignment with fundamental rights to ensure fair trial and protection against self-incrimination. Special attention is paid to highlight landmark judgments that have influenced the legal landscape and shaped the admissibility of these crucial evidentiary elements.

Furthermore, the research explores the potential challenges faced in admitting or extracting confessions, especially when custodial interrogations are involved. The analysis focuses on the adherence to due process, the presence of coercion, and the role of confession in cases of capital offenses, seeking to identify areas of improvement to safeguard the accused's rights.

In conclusion, this research paper provides a comprehensive overview of admissions and confessions in the Indian evidence law system, highlighting the nuanced legal principles and procedural safeguards surrounding their admissibility. It aims to contribute to the ongoing discourse on evidence law and act as a valuable resource for legal practitioners, scholars, and policymakers in their pursuit of ensuring justice, fairness, and protection of individual rights within the Indian legal framework.

I. INTRODUCTION

According to the law, evidence is used to prove a person's guilt or innocence. The term "Evidence" is defined in Section 3 of the Indian Evidence Act², 1872. According to the definition, oral evidence includes any remarks or documents that the court sanctions or orders witnesses to present to it regarding issues of fact that are being investigated. Contrarily, any

¹ Author is a student at The National University of Advanced Legal Studies (NUALS), Kochi, Kerala, India.

² The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872 (India).

papers, including any electronic evidence, that the court approves or requests in relation to issues of fact are considered documentary evidence.

(A) Definition of Admission

According to Section 17 of the Indian Evidence Act of 1872, an admission is any statement made by one of the parties that, in certain situations, raises a reasonable suspicion regarding a fact that is in dispute or another truth that is significant. Admission may be made orally, in writing, or electronically. Any evidence or document used in a court of law to support or refute assertions of fact is therefore considered admissible.

Admissions are regarded as fundamental evidence and are admissible to establish even the contents of written documents without requiring the production of the originals or providing an explanation for their absence. According to the court's ruling in the case of *Bishwanath Prasad v. Dwarka Prasad*³, "Admissibility is substantive evidence of the fact which is acknowledged when any prior statement by the party used to contradict a witness does not become substantive evidence." The objective of evidence being admissible is to cast doubt on the witness's credibility.

There are three aspects to the definition of admission:

- It might be oral or documentary.
- Only if it is made by one of the people listed in the Act will an admission be considered significant.
- Only the situations listed in the Act make admission pertinent.

There are three types of admission:

- Judicial or formal admission.
- Casual and informal admission.
- Admission by conduct.

Formal or judicial admissions are those that a party makes while the matter is being heard. An example of a formal or judicial admission is a statement made by a party to a case in front of the magistrate throughout the course of the proceedings.

Informal or casual admissions are ones that are unofficial in character and do not appear in the case records. For instance, a murder suspect who was injured disclosed the nature of his injuries

³ 1974 SCC (1) 78

to the treating physician. The aforementioned justification was viewed as an admission.

Admissions by conduct refers to a person's decisions based on their behaviour. As an illustration, it would be considered an admission by conduct if a person fled the scene of an informal police interrogation.

In the case of *Ajodhya Prasad v. Bhawani Shanker*⁴, the honourable court ruled that extrajudicial admissions are only partially binding, in contrast to judicial admissions, which are obligatory upon the parties. In situations where they function as or have the effect of estoppel, this rule is an exception.

II. REASONS FOR THE ADMISSIBILITY OF ADMISSION

An admission is a pertinent information. Receiving admission in evidence has been justified for a number of different reasons. In Phipson's Law of Evidence, four of these explanations have been put forth and are being closely scrutinised.

1. Admission as a waiver of proof

The first is that it is not necessary to prove a fact against a party if they have already accepted it. It functions as a proof waiver. Section 58 of the Indian Evidence Act of 1872 expressly embraced this approach to some extent.

Its clause limits this impact to official admissions made during trials, as part of pleadings, or in connection with the action. This provision only relates to voluntary admissions made with a trial in mind; it does not apply to admissions offered as evidence, which often consist of frank remarks made before a lawsuit was even considered and are not legally binding.

The caveat in Section 58's principle states that the court may, in its discretion, require the fact accepted before the court by the party or agent to be proved. Whether the court compels the party to prove his admission or not depends on the circumstances. The court has the right to completely or partially reject an admission or to demand more evidence. Therefore, it cannot be argued that the waiver of proof is the only justification for the relevance of an admission.

2. Admission as Statement Against Interest

The second proposed justification for the relevance of an admission is that since it goes against the maker's interests, it should be assumed to be true because it is highly unlikely that anyone would intentionally make a false statement that goes against their own interests. The relevance of admissions is important for other reasons as well, though. Section 17 merely requires that the

⁴ AIR 1957 All 1

statement make some inference regarding the relevant fact or the fact at issue, not that the statement be self-harming. It is irrelevant whether the statement is in the declarant's favour or not. Self-harming statements are more relevant than self-serving ones since nobody wants to do anything wrong.

However, section 21 of the Indian Evidence Act, 1872 provides an exception to demonstrate the self-serving declaration. However, there are situations when a person's own self-serving remark works against him and can be used as evidence against him.

3. Admission as Evidence of Contradictory Statement

The inconsistency between the party's declaration and his case is another factor that contributes to the relevance of the admission. Such inconsistencies discredit his case.

Example: A sues B for wrongful possession of land, although the land papers show that B has been granted permission to live there by C, A's father. Given that it undermines his argument against B, this statement in the land paper constitutes an admission on his behalf. This is only partially accurate, though, because according to the principle, a party can refute every claim made by an opponent regarding the relevant facts of the case, and it is not required that these facts support the party's position.

4. Admission as Evidence of Truth

The final, most significant, and generally acknowledged justification for why admissions are relevant is that any claims made by a party on the facts of the case whether they are for or against his interests should be relevant as representation or reflecting the truth as against him.

In *Slatlerie v. Pcoley*⁵, Justice Parke B noted that whatever a party claims to be true in evidence against himself, it may be assumed to be true.

III. PRINCIPLES OF ADMISSION

In the case of *Basant Singh v. Janki Singh*⁶, the High Court listed the following guidelines for admissions:

- Any statement made in the plaint may be used as evidence.
- There is no requirement that the Court accept all of the assertions as true; it may accept some of the statements as pertinent while rejecting the others.
- An admission made by a party in a pleading is equivalent to other admissions.

⁵ (1840) 6 M & W. 664

⁶ 1967 AIR 341

- A party's admission in a plaint that he signed and confirmed can be used against him in later lawsuits as evidence.
- Admissions cannot be broken up because they are always evaluated as a whole.
- Any admission is not conclusive, and it is up to both parties to demonstrate whether it is accurate or not.
- Only if the offender enters a guilty plea in his own words and is recorded, is the plea admissible.
- An admission that has a significant impact on the evidence should only be made voluntarily.
- Admissions simply serve as preliminary evidence and have no conclusive value.
- Clear admissions made by the accused in his or her own words are seen as strong support for the allegations made.

IV. RELEVANCY AND ADMISSIBILITY OF AN ADMISSION

When the facts are connected in a way that makes the existence or absence of other facts likely based on a typical course of events or human behaviour, it is said that the admission is significant. According to the law, no irrelevant information may be used as proof. In common-law nations, the evidence is both gathered and constrained at the same time by the parties' claims. The Supreme Court noted in *Ram Bihari Yadav v. State of Bihar*⁷ that the phrases "Relevancy" and "Admissibility," while occasionally used synonymously, are not the same thing. All relevant evidence, however, might not be admissible, but all relevant evidence is admissible. Both admissibility and relevance have different legal ramifications. The Act's overseer decides that the relevance standard is the test for admissibility.

The concept of admissibility in the law of evidence establishes whether or not the evidence can be used by the court. Any fact that has been deemed to be legally relevant is then admissible under the Indian Evidence Act of 1872. All relevant facts are not admissible, but all relevant facts are admissible. Only legally relevant facts are admitted, making admissibility the deciding factor between relevance and proof.

V. CONDITIONS REQUIRED FOR THE ADMISSIBILITY OF EVIDENCE IN THE COURTS

The Indian Evidence Act of 1872's Section 20 lists the confessions made by any person who is specifically mentioned by a party to a lawsuit. According to the clause, admissions are any

⁷ (1998) 4 SCC517

remarks made by a person to whom a party to the lawsuit has specifically referred for facts relating to a topic in dispute. The usual rule against accepting admissions from strangers is also modified in this section.

The relevance and veracity of the fact determine whether or not the evidence is admissible. The evidence is deemed irrelevant, unrelated to the specific case, and not admissible in court. Reliability, on the other hand, relates to the authority of a source that is being utilised as proof. The court determined in the case of *K.M. Singh v. Secretary Indian University Association*⁸ that the nominees' statements made pursuant to Section 20 of the Evidence Act would be regarded as an admission by the parties. According to the court, a third party's perspective must be taken into account when one party makes reference to them in connection with a point of contention.

VI. ADMISSIBILITY OF EVIDENCE IN THE COURTS

1. Admissibility of Evidence in Criminal Proceedings

Evidence can only be presented in a criminal trial if it is deemed admissible and pertinent to the facts or concerns. Here, the evidence is utilised to establish the guilt or innocence of the defendant in a legal issue. The prosecution always has the burden of proof to establish the defendant's guilt, according to the usual rule. What the appellant must prove in order to convict the defendant is set forth by the substantive law in the criminal procedures. In criminal proceedings, the prosecution must establish against the defendant each element of the crime specified by the Criminal Code.

2. Admissibility of Evidence in Civil Proceedings

Governmental documents, such as leases, sale deeds, rent agreements, gift deeds, etc., are typically offered as evidence in civil cases. The burden of proof in a civil case generally rests with "the party who claims must prove." In a civil trial, the party asserting a truth is legally required to substantiate that fact. The burden of evidence transfers to the defendant if the defendant disputes the charges and discovers a constructive default, such as a "counterclaim." However, in civil processes, the burden of proof initially rests with the plaintiff before shifting to the defendant.

⁸ 1992 SCC (3) 129

VII. CASE LAWS

1. Lakshmandas Chaganlal Bhatia V. The State⁹

In accordance with Section 9 of the Indian Evidence Act of 1876, the court established several "important facts" in this case. The Court ruled that a fact became relevant in a case if it was required to explain or introduce it, or if it supported or refuted an inference, established a person's identity, established the time and location at which a fact in question occurred, or demonstrated the relationship between the parties involved in the transaction.

2. Ambica Charan Kundu And Ors. V. Kumud Mohun Chaudhary And Ors¹⁰.

A general rule of Section 11 is governed by Section 32 in the case of Ambica Charan v. Kumud Mohun, "where evidence consists of a statement of a person who is dead and further examines the relevance of such a statement under Section 11. Despite not being relevant or admissible under Section 32, it is relevant or admissible under Section 11. It states that something can be admitted even if it is completely irrelevant, but that whether something was stated was accurate or incorrect is really important.

3. The State of Gujarat V. Ashulal Nanji Bismol¹¹

According to the Court, the phrase "admissible and relevant" refers to evidence that is taken into account by the judge when deciding whether to issue a decision; nevertheless, there is no implied or explicit provision in this Act that defines what constitutes "admissible and relevant" evidence. However, it is impossible to say whether or not remarks or documents that are not admissible or pertinent can be entered into the record. Therefore, the Act does not provide that irrelevant or inadmissible information cannot be documented and added to a record of facts if the judge deems it inappropriate. It is not possible to omit or exclude any evidence or information from the record, regardless of whether it is acceptable or admissible.

4. Nagindas Ramdas V. Dalpatram Ichharam¹²

The Supreme Court of India explained the effects of admission in Nagindas Ramdas v. Dalpatram Ichharam, stating that admissions are typically true and devoid of any ambiguity and that they should be regarded as the best proof for proving any fact in contention or relevant fact by the admission of certain facts. On the other hand, the casual admissions that are made throughout daily activities only serve to clarify the facts through an oral or written declaration

⁹ AIR 1968 Bom 400

¹⁰ AIR 1928 Cal 893

¹¹ AIR 2002 (4) Guj 47

¹² 1974 SCR (2) 544

by either side.

VIII. CONFESSION

Despite the fact that the term "confession" is not defined or used in any way in the Indian Evidence Act, it follows that the inference made under the definition of "admission" in Section 17 of the Indian Evidence Act also applies to confession in the same way. Any statement, whether oral or written, that is advanced for consideration in relation to the fact at issue or to other relevant facts must comply with Section 17's specific provisions.

When a statement is taken into account in relation to a truth that is in dispute or other pertinent facts in a legal process. As a result, a confession is something that the person accused of committing a crime makes, and any words he gives in that regard will be seen as offering an opinion about the pertinent facts or any fact in question.

"A confession must either be admitted in the context of any offence or in regard to any material facts which launch the offence with criminal proceedings," Lord Atkin wrote in *Pakala Narayan Swami V. Emperor*¹³. Furthermore, admitting to major misconduct or even a fact that is unmistakably incriminating is not necessarily a confession.

The Supreme Court upheld the Privy Council's ruling in the case of Pakala Narayan Swami and supported their arguments with two arguments in *Palvinder Kaur v. State of Punjab*¹⁴. Firstly, the definition of confession only exists when the statements confer the admission that the speaker is either guilty of any crime or the admission is corroborated by all the facts that make up the crime. Second, a statement cannot be regarded as a confession if it possesses many characteristics and incorporates a variety of confessional declarations that result in the acquittal of the confessing party.

The Supreme Court emphasised in *Nishi Kant Jha v. State of Bihar*¹⁵ that there is no wrong with relying on part of statements made by the accused while ignoring the other part. The court drew this concept from English law, and when it determined that it had sufficient evidence to disregard the exculpatory part of the confession, it could instead rely on the inculpatory part of the confession.

The principle that "the Court before ascertaining the facts for the purpose of deciding the facts in issues of the case, should begin ascertaining the case facts with all other evidences possible related to the case and then only it shall turn to the approach of confession by the accused in

¹³ (1939) 41 BOMLR 428

¹⁴ 1952 AIR 354,

¹⁵ 1969 AIR 422

order to administer complete justice to the conclusion of guilt of the accused" was explained by the court in *Baburao Bajirao Patil v. State of Maharashtra*¹⁶.

IX. TYPES OF CONFESSION AND THE PROCESS OF RECORDING A CONFESSION

Depending on the circumstances of the case, a confession may take many various forms. In general, there are two different classifications of confession: judicial and extrajudicial. Judicial confession refers to a confession made through the production of statements in a court of law. Extrajudicial confession refers to a confession made through the production of statements outside of a court. Due to the fact that distinct confessions do not share the same evidential standards as other confessions, the circumstances surrounding how, what, and where these confessions are made affect how these confessions are valued.

In *Sahoo v. the State of Uttar Pradesh*¹⁷, the accused murdered his son's newlywed wife because he frequently had heated arguments with her. When the accused killed his daughter-in-law, many people living there saw and overheard the accused saying, "I finished her and now I am free from any daily quarrel." This is an exceptional feature of confession that also leads to a confession. The court made the observation in this case that the statement or self-conversation made by the accused should be regarded as a confession to prove his guilt and that such confession should be recognised as a relevant in evidence in administering justice.

The court further observed that just because the statements are not communicated to anyone else besides the accused does not lessen the relevancy of a confession. Therefore, a confession that he made to himself qualifies as quality evidence that would be taken into account in a court of law. The types of confessions are as follows:

1. Formal Confession

Formal confession is also referred to as judicial confession, and the statements that are made during any criminal proceedings before a judge or in a court of law are known as formal or judicial confession. According to the clause explained under Article 20(3) of the Indian Constitution, a judicial confession is essentially a "plea of guilty"; otherwise, any confession made against the person making the confession will have no probative value, and he cannot be found guilty of any crime on the basis of such confession.

Despite belonging to the same branch, judicial confessions and informal confessions should not be compared because they have different meanings and applications for evaluating the guilt of

¹⁶ (1971) 3 SCC 432

¹⁷ 1966 AIR 40

the accused. There may be reasons that a conviction can be obtained even on the basis of an extrajudicial confession, but we must also consider the fact that there is no justification for ignoring the possibility of obtaining a conviction only based on an official confession.

Therefore, a confession made by the accused that is taking him to the bar is evidence that can be used to prove his guilt; nevertheless, all such confessions must be made in front of a magistrate or in a court of law. On the other hand, the court must take all necessary measures to ensure that any confession made by the accused that could prove his guilt is voluntary and truthful, in order to ensure that no innocent person is held accountable for the wrongdoing of others, as stated in Article 20(3) of the Indian Constitution, which addresses "self-incrimination."

2. Informal Confession

Informal confession is also referred to as extrajudicial confession, and utterances made anywhere other than the location where the magistrate is not present or the court are regarded as extra-judicial confessions. The statements did not necessarily need to be directed at a specific person. Similar to the judicial confession principle, informal confession can also be made through prayer, in any quiet space, or by self-conversation. But regardless of judicial or extrajudicial confession, the court must take care that the confession by the accused complies with Article 20(3) of the Indian Constitution, which states that "No one should be compelled to give evidence against himself." This means that the confession must be on the confessor's will and must be true; only then can a person be charged with any crime.

A person will be considered to have made an extrajudicial confession if they confessed their guilt of the crime they committed to a friend or a member of their family. Although both judicial and extrajudicial confessions are admissible in court, each has a unique evidentiary or probative value that can be used to support a particular claim. This means that the court will test the extrajudicial confession in order to find any person guilty of whatever crime he may have committed, rather than basing a conviction merely on the confession.

Extrajudicial confessions can be made to any private person, including judicial officers acting in their private capacities, which distinguishes them from judicial confessions. In some situations, extrajudicial confessions also limit a magistrate's ability to record confessions for which he is not authorised by Section 164 of the Criminal Procedure Code.

In *State of Punjab v. Bhagwan Singh*¹⁸, the Supreme Court ruled that an extrajudicial

¹⁸ 1952 AIR 214

confession only has value when it is blatantly consistent with and convincing in light of the case's resolution. Otherwise, the accused cannot be held accountable for the conviction solely based on the confession he made.

The Supreme Court outlined some guidelines in *Balwinder Singh v. State*¹⁹, ruling that in cases involving extrajudicial confessions, the court must determine the credibility of the person making the confession and evaluate each of his statements to determine whether or not they are reliable. If the person is not reliable, then the statements of that person cannot be used to draw any conclusions about the other party.

The Supreme Court stated a few parameters in the case of *Sahadevan v. State of Tamil Nadu*, that the court must follow before allowing the accused's confession to be accepted. The following guidelines are mentioned by the Supreme Court:

- Extrajudicial confessions are typically a relatively feeble kind of evidence on their own, so the court must efficiently evaluate such claims.
- Extrajudicial confessions must be made voluntarily, and the information provided must be accurate.
- When an extrajudicial confession is corroborated by further such evidence, its probative value immediately rises.
- Similar to how any other fact in dispute is demonstrated in judicial proceedings, the confessor's comments must demonstrate his guilt.

3. **Judicial Confession**

According to Section 80 of the Indian Evidence Act, a judicial confession that is made in front of a magistrate or in court and is recorded by the magistrate in accordance with legal requirements is deemed to be a true and genuine confession, allowing the accused to be tried for the crime. It is not required to know which magistrate recorded the confession because Section 164 of the Criminal Procedure Code gives magistrates the authority to do so, unless that magistrate has specific recording restrictions. As a result, in order to prosecute the accused for the crime he committed, the identification of the accused must be established in the confession.

4. **Extra-Judicial Confession**

Even if extra-judicial confessions are less effective than judicial confessions, a written confession is still one of the best pieces of evidence the court has at its disposal to accuse the

¹⁹ 1996 AIR 607

defendant of the crime. Additionally, the court may examine the accused's oral confession to any other person if the confession is not accessible in writing form. The remarks made by the accused to any other person may be admissible in court, and if so, the accused may then be charged with the crime for which he is accused.

5. Retracted Confession

Retracted confessions include circumstantial evidence supporting them as guilty of any crime. The police investigate the case based on their investigation; they question the witnesses, the parties involved, the defendant, and many other factors. Police will report to the appropriate magistrate or court if they believe that the accused is guilty of a certain crime after conducting an investigation. The magistrate is required to gather evidence throughout the trial and question the defendants.

If the court determines that the defendant is guilty of a specific offence based on the investigation report, the court will order the defendant to repeat their admission of guilt. If the accused does not enter a plea of guilty, he may retract all of the confessions he gave to the police over the course of the police investigation and will need to provide evidence to support his retractions when the trial begins. Therefore, since retracted evidence only has circumstantial significance, the court must proceed with any inferences with extreme caution.

6. Confession by Co-Accused

The Supreme Court determined that the confessions made by the co-accused do not have much probative value and cannot be regarded as a substantive piece of evidence in the case of *Pancho v. State of Haryana*. Therefore, the co-confession accused's can only be used to support the inference made by other persuasive evidence.

(A) When is a Confession Irrelevant?

When can a confession be irrelevant is a condition covered by Sections 24, 25, 26, and the pertinent portion of Section 27 of the Indian Evidence Act, 1872.

Different situations in which a confession based on such circumstances becomes immaterial are described in Section 24 of the same Act. According to Section 24 of the Indian Evidence Act, a confession made by a person who is accused of an offence is irrelevant if it was obtained as a result of an inducement, threat, or promise, and the inducement, threat, or promise originated from a person in authority, such as the police, a magistrate, a judge, or another person. Another requirement of this section is that the inducement, threat, or promise must be related to the charge of an offence, and all such inducements and threat.

The four different necessities are as follows:

1. The confession must have been obtained through coercion, intimidation, or promise, among other means.
2. Such an admission ought to come from a figure of authority.
3. It ought to be connected to the alleged offence.
4. It ought to have a temporal nature advantage or disadvantage.

Therefore, the confession is no longer relevant when these criteria are met.

(B) Confession to Police and the effect of Police Presence

The core of commission is covered by a number of statutes, but the Evidence Act's Sections 24 to 30 and the Criminal Procedure Code's Sections 162 to 164 particularly address confessions.

No words made to a police officer shall be taken into account as a confession for the purpose of using that confession against the person who is accused in the case, according to Section 25. The conditions outlined in Section 25 of this Act are crucial because they ensure that any confession given by the accused to a police official, regardless of the circumstances, is completely inadmissible as evidence in a court of law to establish the accused's guilt. According to Section 26, it is unlawful for judicial authorities to use an accused person's confession to police while they are holding him as evidence of guilt.

Section 26 imposes a partial ban on Section 25's requirements, which stipulate that confessions made to police officers while they are holding someone may be acceptable if they are documented in the magistrate's immediate presence.

The supreme court observed in *Dagdu v. State of Maharashtra*²⁰, that the police investigation seemed to revolve around the antiquated practise of coercing confessions. The police should keep in mind that getting a confession is not always a quick fix. They ought to aim to "arrive" at a confession rather than seeking to "start" from one. Otherwise, valuable evidence could evaporate owing to a lack of attention to real indications while they are focused on their quick road to victory. When a confession is acquired, there is frequently a loss of enthusiasm for a thorough investigation to establish the case without the confession. When the confession is later found to be inadmissible for one reason or another, the case then proceeds to trial.

In *R v. Murugan Ramasay*²¹, it is stated that police authority, despite being carefully controlled, poses a threat to those who are unexpectedly placed under its protection. The law recognises

²⁰ A.I.R. 1977 S.C. 1579

²¹ (1964) 64 C.N.L.R. 265

this threat and guards against it by forbidding such people from making incriminating confessions in order to appease authority figures without considering the veracity of their statements.

In ***Kishore Chand v. State of Himachal Pradesh***²², Pradhan, who was accompanied by a Police (enquiry) Officer, received the extrajudicial confession. The only negative inference that can be derived from the facts of the case is that the confession was made while the accused was in police custody and could not be used against him. It is inconceivable that a police officer would refuse to take an accused person into custody after witnessing the accused with a deceased person on one occasion.

In ***R. v. Lester***, a police constable was transporting the defendant in a tonga. The accused admitted to the tonga-driver that he committed the offence in the absence of the officer. Given that the accused was in the constable's care and that he was only temporarily away, the confession was deemed to be in police custody. A friend of the woman was present when she was brought into police custody after being accused of killing her husband.

The officer walked off to find a new horse while leaving the woman with her buddy. While the police officer was away, the woman admitted her guilt to her friend. Because the prisoner should be considered in police custody despite his brief absence, the confession would not be admissible against the accused. However, it would be going beyond what the section permits to exclude the statement the accused makes on the basis that he is presumed to be in police custody if he is not detained or being watched and is just asked to explain some circumstances.

The Supreme Court ruled in ***Pandu Rang Kallu Patil v. State of Maharashtra*** that section 27 of the Evidence Act was enacted as a proviso to the provisions of Sections 25 and 26, which outlawed the admission of any confessions made by suspects to police or to anybody else while they were in detention. However, if the claim is clearly tied to factual discovery, the ban would be waived. The purpose of the provision in section 27 was to allow for the admissibility of a certain portion of an accused person's statement to a police officer, whether or not such statement contained a confession.

X. CONFESSION IN FURTHER DISCOVERY OF FACTS

The concept of the relevance of information obtained from the accused through an irrelevant confession made to police or while in their custody is lifted by Section 27, which may aid in the future investigation of the case's facts. According to Section 27, whenever a fact is forcibly

²² Kishore Chand v. State of Himachal Pradesh

discovered while receiving information from an accused person during a police investigation or while the accused is in the custody of the police, and whenever such information results in the discovery of other relevant facts, they may be distinctly proven.

In the case of **Pandu Rang Kallu Patil v. State of Maharashtra**, the court found that Section 27 of the Indian Evidence Act was intended to lift and remove the prohibition imposed by Sections 25 and 26 of the Act in such a way that: Sections 25 and 26 of the Act categorically prohibit the admission of any confession made to the police or while in their custody, but the purposes of Section 27 permit the admission of statements made by an accused person, even to a police officer, and the objectives.

XI. EVIDENTIARY VALUE OF THE CONFESSION

An accused person may be found guilty based on a confessional statement they made in front of a magistrate. A confession is sufficient evidence to convict the maker, and it may obviously be used against the maker. The Rajasthan High Court also ruled that an accused person's confession counts as substantial evidence and that a conviction can be obtained simply on the basis of a confession.

The prosecution would be unable to get a conviction if it were determined that the confession was genuine, free, and voluntary. If the court determines that the accused actually committed the crime, it signifies that the accused is guilty, and the court's only obligation is to enter a conviction and impose a sentence. In this instance, the issue of corroboration is irrelevant. Normally, it would not be wise, if not legal, to base a murder conviction just on the confession of the alleged murder without any additional evidence.

It would be very dangerous to do so when the confession is accessible to a lot of criticism, has been taken in the jail without justification, and when the confession's account of the murder is somewhat implausible. Since the Supreme Court made this statement, it cannot be argued that it is a sound rule of law in the context of judicial confession.

Now, it is established law that a confession can only be used as a basis for conviction if it can be demonstrated to be true and voluntary. If further proof is required, it suffices if the basic thrust of the confession is supported by some evidence that would be consistent with its contents. General agreement is sufficient.

Extrajudicial confessions aren't typically seen favourably, but that doesn't imply that one made by someone who has no reason to lie and who is doing so in a situation that supports his story shouldn't be taken seriously. Extrajudicial confessional evidence is insufficient proof. The

extrajudicial confession needs to be treated very carefully and with great care. It can only be trusted when it is persuasive, consistent, and clear. The credibility of the witnesses must be determined by the court before it can accept the admission as true.

Due to the misinterpretation of the witness in front of whom the confession was made, the abuse of the words, and the failure of the party to communicate his own meaning, the extrajudicial confession is susceptible to the risk of error. This is vulnerable to yet another type of risk. Due to the lack of a record and a sanction, it is relatively simple for the prosecution to question any witness who may appear and testify that the accused admitted guilt in his presence at a specific moment. These factors make it extremely risky for courts to convict someone solely on the basis of an extrajudicial confession. Typically, and out of prudence, courts need some tangible support for an extrajudicial confession statement's support linking the accused to the alleged crime.

When an accused person's claimed confession serves as the basis for a conviction, the prosecution must prove three things. Extrajudicial confessions must be treated with extreme caution and attention. First, that a confession was made; second, that proof of it is available, proving that it was voluntarily made; and third, that the confession is accurate. Such a confession needs to be supported by reliable or independent evidence.

There was a claim that the deceased girl was murdered by her father and stepmother at a national park in *State of Karnataka v. A.B. Nag Raj*²³. The accused allegedly made the extrajudicial confession while being held in a forest office. Neither the report supplied to the police nor any of the witnesses present there made any mention of the purported confession. It is not advisable to rely on this extrajudicial confession. Consider whether the extrajudicial confession was indeed made before relying on it. It should also be taken into account as to why the accused placed trust in the witnesses' statements of the confession.

XII. VALUE OF RETRACTED CONFESSION

Retracted confessions are statements made by an accused individual before to the start of the trial in which they admit to committing the crime but afterwards retract them. After a significant crime is committed, a police officer looks into the case, interviews suspects, and analyses witnesses. If, in his judgement, the accused is found to have committed the crime, he presents a report to the appropriate magistrate. The accused is examined in court and evidence is presented. If during the investigation the accused is willing to confess guilt after being probed

²³ State Of Karnataka vs A.B.Nagaraj & Anr on 10 December, 2002 (indiankanoon.org)

by the police officer, the police officer sends the accused to a magistrate to record his statement. The magistrate's recorded statement may be used as evidence at the trial once the magistrate is satisfied that the accused admits to committing the crime in his statement. When questioned about whether he committed the crime at the start of the trial, the accused may claim he did not. He may be questioned once again about whether he admitted his guilt in a statement to the magistrate over the course of the investigation. He may claim that the police exerted undue pressure on him to make the statement, deny having made it at all, or both. Retracted confession in this instance refers to the confession the defendant made to the magistrate prior to the start of the trial.

An accused person confessing to the investigative authority that he committed the murder is actually quite strange. If the accuser is as truthful as Harish Chandra and Yudhisthir, then he or she would not have made the testimony under any duress, fear, or expectation. If this is the so, and if the confession was given because the wine was repentant, out of fear of God, or simply because he was truthful, there is no reason why he would later retract it when he is placed on trial.

XIII. CASE LAWS

In *CBI v. V.C. Shukla*, the Supreme Court redefined the terms "admission" and "confession," highlighting the distinction between the two and holding that "discretionary and undeviating consciousness of guilt is confession," with the accused's confession being admissible as negative evidence. On the other hand, admissions made by the person making the admission may not be taken into account under Section 4's preview, which is conclusive proof of the facts made. Instead, the admitted matter or facts may only be taken into account as substantive or probative evidence of the admission.

XIV. CONCLUSION

Both civil and criminal processes depend heavily on evidence. It is the most important and necessary component of every process. If the facts are accurate and important, the evidence should always be allowed in court. All of the specific provisions under the code must be satisfied by the proof. At the time of admission, logical and legal relevance should both be taken into account. Therefore, only evidence with a strong degree of probative value should be admitted by the courts.

Criminal law has relied heavily on confessions. It is a section of the Evidence Act's admission provisions. Confessions are accepted as sufficient proof of an accused person's guilt in court if

they are true and acceptable. The majority of the components of the confession are covered under Sections 24 to 30 of the Evidence Act as explained in this document. The constitutional right under Article 20(3) is likewise respected, and the laws governing confession protect the accused from abuse. Such a confession becomes admissible if the threat or temptation is entirely eliminated. The accused is shielded from police torture if a confession is made while they are in jail and is not taken into account. The rights of the accused are upheld by several provisions in both the criminal procedure code and the evidence legislation.

XV. REFERENCES

- Law of Evidence by Batuk Lal
- Indian Evidence Act by Dr. V. Krishnamurthy
- The Law of Evidence in India: A Critical Commentary on the Indian Evidence Act by Shakil Ahmad Khan
- Ratanlal & Dhirajlal's The Law of Evidence by Justice M. Rama Jois
- Evidence Act, 1872: with State Amendments, Rules and Allied Laws by Universal Law Publishing
- Indian Evidence Act, 1872: (with Exhaustive Case Law) by Eastern Book Company
- Law of Evidence in India by Avtar Singh
- Evidence Act, 1872: Notes, Case Laws, and Amendments by LexisNexis
- Law of Evidence (As Amended by the Criminal Law Amendment Act, 2018) by Kamala Sankaran
- The Indian Evidence Act: Central Act, 1 of 1872 with State Amendments by Professional Book Publishers.
- Phipson's Law of Evidence
