

## CONFESSION A CRUCIAL ASPECT OF CRIMINAL SYSTEM

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### ABSTRACT

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Under any legal system to find out the guilt of the accused, it is relevant to find out his intention. But because of confession, such an intention is itself accepted why the accused and now the courts don't have to conduct a full trial and just decide upon the confession of the accused based on corroboration. Confession is very important as it is not any normal evidence but a decisive piece of evidence and conviction can be based upon it. To consider confession certain provisions and aspects need to be kept in mind along with legal provisions and guidelines and based on the cases decided by the Supreme Court, these all are tried to keep in front in this paper.

### INTRODUCTION

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The word used here confession is not a new term for the criminal law system, but if we talk about it from Indian perspective, it is nowhere defined in any Act only there are few cases decided by the Supreme Court which constitute the definition of the Confession. The whole concept related to confession is given in the Indian Evidence Act, 1872 from Section 24 to Section 30; the procedure to record that is given in Criminal Procedure Code, 1973, and its validity is also given in the Indian Evidence Act, 1872 in Section 80. Confession is written inside the title of admission and considered as a part of admission but both are different concepts and needed to be understood and used separately. All confessions are said to be admissions but all admissions are not called confessions. There present certain rules, procedures, and irregularities present while recording the confession. Confession can be asked for a conviction also like a piece of conclusive evidence if recorded by the magistrate or a judge. Confession is also considered as one of the most important pieces of evidence and a very important essential in understanding the guilt of the accused person.

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## MEANING

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The word confession has firstly appeared in The Indian Evidence Act in its Section 24 but in the act, it is not defined. Each and every provision of the Confession come within the heading of “Admission.” As per section 164 of Cr.P.C., the confession has to be recorded by a magistrate and any confession given to a police officer has no evidentiary value in the court of law.

As per **Justice Stephons** in his digest, “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.”

In **Shivappa v. State of Karnataka**<sup>2</sup>, it was observed by the court that, “confession is a significant piece of proof and subsequently it is important to analyze whether the admission made by the appealing party was intentional, valid and trustworthy.

In the case of **Francis Stanly v. Intelligence officer related to Narcotic Control Bureau, Thiruvananthapuram**<sup>3</sup>, the apex bar said, any confession made by an accused must be on his/her free will and there should not be any pressure while recording.

## DISTINCTION BETWEEN CONFESSION AND ADMISSION

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1. A Confession is an assertion made by a charged criminal case against him to build up the commission of an offence by him and an Admission is mostly related from the civil cases and relates to all those points which summed Admission as per Section 17 of the Evidence Act.
2. Confession is dealt with the Indian Evidence Act from section 24 to section 30 and it is recorded according to Section 164 of C.R.P.C and Admission is dealt with sec 17 to sec 21 of the Indian Evidence Act.
3. Confessions are made voluntarily and free from any pressure and are considered as conclusive evidence, whereas Admission is not decisive evidence as issues conceded may work estoppel.

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<sup>2</sup> AIR 1995 SC 980

<sup>3</sup> AIR 2007 SC 794 at pg. 796

4. Confession never goes in favour of the person making it, while Admission might be used in favour of the person who says beneath exceptional conditions as per section 21 of the Evidence Act.
5. Confession said by the accused person or persons might be taken as jointly for considering against the co-accused<sup>4</sup> and in Admission, evidence can't be used against other defendants by the several defendants or even by one.
6. Confession refers to a written or oral statement that directly tells of guilt, while any oral or written statement or in electronic form which might give information related to the guilt of a person is called admission.

In criminal cases an assertion by charged, not adding up to admission however offering to ascend to induction that the denounced may have perpetrated the wrongdoing is his admission.

## **TYPES OF CONFESSION**

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Any confession is also of the various sort in line with the matter of the cases. Generally, confession is differentiated into 2 differing types:-

### a) Judicial Confession

Judicial confession refers to those which are said in a court or front of a magistrate in a legal proceeding. It is a "plea of guilt on arrangement if made freely by a person in a fit state of mind." Section of the Evidence Act calls for evidentiary value in a confession because it provides for Assumption as to archives delivered as a record of proof, as it is noted in the office of the magistrate as per section 164 of C.R.P.C it is presumed to be a conclusive segment of proof against one who is accused.

### b) Extra-Judicial Confession

It refers to those words which or Confessions that are not made before the court or before the magistrate by the accused. These confessions can be said in front of any particular person or persons. It can't be considered as a conclusive segment of proof but is a significant piece of proof and any conviction can be made on its basis only after corroboration with other

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<sup>4</sup> Section 30 of the Indian Evidence Act, 1872.

evidence supporting the same. Though it is not made in front of a magistrate or a judge still it is needed to be made voluntarily and free from any pressure. The person in front of whom such a confession is made has to inspire confidence in the mind of the judge and it has to be matched with the story of prosecution.

### **INGREDIENTS OF CONFESSION**

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- a. The statement in question needs to be a confession as per the meaning of it in the Evidence Act.
- b. Any confession like that must be made by the person accused himself.
- c. It is said in front of any person in command.
- d. Such revealing not to be called for by impulsiveness, threat, or any kind of promise, by any person in command.
- e. Any confession is made voluntarily and free from any pressure.
- f. No revealing in front of a police officer is valid in front of the court.

### **PROCEDURE FOR RECORDING “CONFESSION” OF THE MAGISTRATE**

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As per Section 164 C.R.P.C, the following is a procedure to record the confession by the magistrate called upon by the police to record such a confession:-

1. The magistrate has to be called upon by the police for recording the confession of the person charged with any offence.
2. A magistrate has to free the premises in which he is recording the confession from the presence of any police officer or any other person in authority and then only he has to record the confession, to remove any pressure if made upon him by any person.
3. Each magistrate whether metropolitan or judicial may record confession, despite having or not having jurisdiction.
4. Any confession made to a metropolitan or judicial magistrate needed to be recorded by sound or video i.e., electronic methods within the sight of the backer who is a lawyer of the one making that confession.
5. Before recording any confession the magistrate has to explain that the one who is making it has no compulsion on him for evidence as the same will be used against him as evidence.

6. A magistrate has to make sure that the person confessing is making it voluntarily by questioning him about the same.
7. All the revealings must be captured in a way that is given under section 281 of the CRPC in case of examination of the incriminated and the same has to be signed by the accused and magistrate has to make a memorandum on the foot of the confession which is to be signed by the magistrate.
8. Any statement other than a confession other than one in section 164 subsection 1 as provided for recording the evidence, in the assessment of the judge, best fitted for the conditions of the case and such an officer is expected to direct vow on such evidence recorded by him.
9. Magistrate recording a confession or a statement it has no jurisdiction over that area, he recorded the confession, and he is entitled to forward such a confession or statement recorded by him to the magistrate having jurisdiction over the matter.

### **CONDITIONS FOR IRRELEVANCY**

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- As per Section 24 of the Evidence Act if any confession is brought about by affectation, danger, or guarantee concerning the offense against the denounced and such a danger or inducement is made by the people in control and the same comes in court and the favour of curt accused would profit or abstain from certain evils of temporary period, the court can refuse to accept such a confession.
- As per Section 25 of the Evidence Act, no admission made to a cop will be demonstrated against the charged identified with any offence for a confession made to police or any particular cop related to the inspection of a case of the accused.
- As per Section 26, any revealing made by the accused during police imprisonment to any cop is not valid, unless spoken not in absence of a magistrate where such a magistrate has to make it ensure that the accused in making such a confession voluntarily and free from any type of danger, prompting or guarantee by an individual in power.

## **RULES MUST BE KEEP IN MIND WHILE RECORDING A CONFESSION**

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- It should be ensuring that the premises in which the confession is sought to be made is vacated and only the magistrate and the person confessing is present in that premises.
- If the confession is made in court, then it should make sure the judge that he is not under any pressure or influence by asking him certain questions related to it, to check his intention behind confessing.
- It should be checked that the person confessing is in a fit state of mind.
- The admission needed to be recorded in the audio-video form if made under section 164 C.R.P.C in front of a magistrate.
- That confession so made needed to be kept in writing by the magistrate and at end of such confession, there should be a footnote describing the views of the magistrate and the same should get authorization of the magistrate.
- Any confession made by the one charged needed to be signed by him.
- In case any extra-judicial confession is made, it is ensuring in the mind of the judge that the person so claiming of the confession made to him has confidence and same confidence has to born inside the judge's mind.
- In an instance of any extra-legal admission it ought to have collaborated with other evidence, it should match the prosecution's story and then only a conviction can be based on it.

## **OTHER PROVISIONS RELATED TO CONFESSION**

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1. As per the Evidence Act, in its Section 27, that where any information as to any reality is ousted to as found in the outcome of the data got from an individual blamed for any offense, in the guardianship of a cop. Such facts when discovered by police based on the information y the accused, needed to be proved in the court for its genuineness.
2. As per the Evidence Act, in its Section 28, if in the thinking of court there exists any inducement, threat or promise is removed and later on after removal of it such a confession is made, it is valid as per the meaning of section 24 of the Act as well.
3. As per Section 29 of the Act, is any confession that is generally pertinent, won't become superfluous on the grounds that it was made under a guarantee of mystery or in the outcome of a trickiness rehearsed on the blamed individual for the reason for

acquiring it. The same shall be removed by asking the question from the person who is charged whether he has been made to make such a revealing and that later on such evidence might be used against him.

4. This Act as per section 30 provides where a revealing is made by people than one being attempted mutually for the same offense and the court may think about such admission as against such other individual just as against the individual who makes the admission.
5. In the Act, under section 80 it is stated that any document is recorded by a magistrate of any judge, that document is presumed to be genuine. This Section makes the confession recorded by the magistrate genuine.

## CASE LAWS

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### **R.M. Malkhani v. State of Maharashtra<sup>5</sup>**

In this case, the Supreme Court held that tape recording is admissible as a confession if it relates to the subject matter, the voice of the accused is matched with the recording and it is proved that it is accurate, and then such a tape recording is valid as evidence.

### **Kisan Lal v. State of Rajasthan<sup>6</sup>**

The Apex Court held that an extra-legal admission can be depended on it must be proved that it is clear and unequivocal. In this case, the alleged confession made by a large number of persons before panchayat was more in general and vague from therefore no reliance could be placed on such confession.

## CONCLUSION

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In the criminal legal system, the intention is considered as most important in the competition of the guilt of the accused, to find out the guilt of the accused the court has to take a full-fledged trial. In case of confession, such a trial is shortened as the accused himself accepts his guilt, but it should make sure that it is free from any type of pressure and made voluntarily by such person. There presents a full-fledged procedure for recording the confession as given in C.r.P.C. Confession is not only limited to only Indian Evidence Act, 1872 but it also comes under C.r.P.C in its Section 164. All combinations of these two Acts make the confession

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<sup>5</sup> AIR 1973 SC 157

<sup>6</sup> AIR 1999 SC 3062

valid in the court of law and the provisions of these two Acts needed to be kept in mind while recording and using confession as a piece of evidence.

