



## An Overview Of Admission And Confession Under Indian Evidence Act 1872 Part II

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### Abstract

In this article, we will delve into the details of the legal concept known as confession, under the Indian Evidence Act of 1872. A confession, in terms, refers to a statement made by an individual who admits their involvement in an activity. While confessions can be used as evidence in cases, they need to be given to be considered admissible.

Firstly we will explore the definition of confession outlined in the Evidence Act. Following that, we will analyse the criteria that must be satisfied for a confession to be deemed admissible. These criteria include both voluntariness and reliability. Furthermore, we will discuss the distinctions between confessions and admissions and how these differences impact their use as evidence.

To wrap up, we will provide some keywords that can assist readers in finding detailed information about confessions under the Indian Evidence Act. By gaining an understanding of these intricacies, readers can develop a grasp of how confessions are utilised as evidence within India's legal framework.

**Keywords:** Confession, Indian Evidence Act, 1872, Voluntariness, Reliability, Criminal cases, Admissions

### Introduction

There are two types of confessions; those that indicate guilt (statements) and those that do not (exculpatory statements). [1] In a case, if a statement contains information, it cannot be considered a confession. It is crucial for the court to distinguish between exculpatory statements made by the accused. If the exculpatory part of the confession is proven to be true, then the entire confession becomes inadmissible. However, if the court determines that the exculpatory part is unreliable or disproven based on evidence, it can dismiss it. Accept only the incriminating portion.

### Types of Confession

#### Judicial Confessions

When an individual confesses to a Magistrate (as per 164 CrPC) or in court, it is considered a judicial confession. This type of confession holds significant value as evidence in a trial, regardless of the accused confessing directly to the court. However, it is crucial to adhere to all the proper procedures outlined in Section 164 CrPC while recording such confessions. Please do so to avoid the loss of the evidentiary value of the confession. Minor irregularities, such as the absence of a recorded warning statement given orally under Section 463 CrPC, may be acceptable in some cases.

#### Extra-Judicial Confessions

When someone confesses a crime to someone other than the authorities, it is called an extra-judicial confession. It is important to note that this type of confession involves many people and does not carry the same legal process or warnings as judicial confessions. As a result, the court will typically look for additional evidence to support the admission, as an uncorroborated extra-judicial confession alone may not be sufficient to lead to a conviction. Other proof is required to demonstrate that the confession was made voluntarily and under fair circumstances. Police confessions may also be considered only if they fall under Section 27 IEA. It is also worth noting that confessions under Sections 24-26 of the IEA should be disregarded. These sections will be discussed further later on.

#### Retracted Confessions

Confessions are sometimes made and later denied by the person who made them. This means that they claim the admission to the other party was false or never happened. [2] However, it has been shown that voluntary and truthful confessions can be considered reliable evidence. Another issue has also demonstrated that retracted confessions can be used to convict a defendant, but usually, corroborating evidence must be presented in court. [3]

**To get a wholesome understanding of confessions and the sections in the IEA dealing with the concept, the following can be referred to.**

Section 24 outlines three critical factors when confessing: Inducement, Threat, and Promise (ITP). If any of these elements are present during the confession, it becomes irrelevant. Additionally, the admission must be made against the accused and relevant to the case against them. The ITP should come from someone in a higher authority than the accused, and the accused should believe that they will obtain some benefit or avoid harm by confessing under these circumstances.

It's important to understand that if there is any reasonable doubt about the ITP, the court will not consider a confession as evidence. This is based on Article 20(3) of the Constitution of India, which protects accused persons from being compelled to testify against themselves. This section reinforces that non-voluntary confessions should not be admissible in court.

Confessions made to someone of lower authority, even from a higher authority figure, will not be considered relevant. However, if someone without authority confesses to someone with control over the accused, the confession will be regarded as appropriate and not protected under Section 24.

Per section 163 of CrPC, police officers are prohibited from using ITP under section 24. However, if an accused voluntarily confesses, the police are not obligated to give a warning. It is the magistrate's responsibility, under section 164(4) CrPC, to caution the accused.

If an accused had invoked ITP under section 24 earlier but later no longer experiences its effects, any confession made during that time is still admissible under section 28.

In Section 29, we are informed about the different deceitful tactics that are employed to extract confessions. If a person is coerced to keep their confession a secret, deceived, or asked questions they are not supposed to answer without warning, their confession may still be considered valid unless IEA prohibits it.

However, this concept is distinct from the "Fruits of Poisonous Tree" doctrine, which is not yet enforced in India. This doctrine implies that the courts will not consider any suspicious way of obtaining or planting evidence or using a tainted source, even if it is solid evidence. If a confession is obtained through such methods, the court may become suspicious and ask for independent proof.

Section 25 specifically prohibits the use of confessions made to a police officer. This is to prevent police officers from obtaining confessions through threats and violence. The use of such confessions is wholly barred by the word "shall" in this section.

Determining who qualifies as a police officer requires referencing Section 173 of CrPC. This section grants police officers the power to file a charge sheet. Although each state has its police force, there may be other types of police officers controlled by specific statutes, such as customs officers. If a particular officer has the same authority as a police officer under Section 173, the governing law must explicitly state so. If it does, such officers would be considered police officers, and Section 25 would apply. However, the Customs Act governs customs officers and does not contain such provisions. Customs officers have the power to investigate or search, but they cannot file a charge sheet. [4] Therefore, according to a case, such officers are not police officers under Section 25, and any confessions made to them would be admissible as evidence. It is essential to note that these officers are bound by Section 24, which means that any presence of ITP during confession would make it irrelevant.

As discussed in another case, [5] the phrase "accused of any offence" used in the section signifies that a confession made to the police, even before the investigation phase or if the accused is not under arrest or custody of the police, would come under Section 25.

The Malimath Committee Report [6] recommends amending Section 25 to allow confessions made to senior police officers, superintendents of police, or higher-ranking police officers to be admissible as evidence in court. This exception is mainly applicable to special statutes.

Section 26 continues this by stating that confessions made to police officers in police custody would not be used against the accused and would be inadmissible as evidence. However, an exception allows confessions to be admissible if made to a third party in the immediate presence of a magistrate.

In Section 27, it is stated that a statement made by an accused person while in police custody may not always be considered a confession. It could instead be classified as a recovery statement if it provides valuable information that aids the police in uncovering essential details. For instance, if the accused's report leads the police to find a murder weapon, it can be used as evidence. The Doctrine of Confirmation by Subsequent Events is the guiding principle behind this section, which assumes that a statement made by an accused person is trustworthy and given voluntarily if the discovery of facts supports it.

It is crucial to establish a causal relationship between the information given by the accused in a confessional statement and the subsequent discovery of facts by the police. As per a case [7], it is necessary to demonstrate that the police found the points due to the accused's statement and that they were unaware of them through any other means. Moreover, the accused must know the whereabouts of any hidden objects, as highlighted in another case. [8].

In a previous case [9], it was concluded that merely directing the police to a location without giving a statement does not fall within Section 27. However, this action may be considered relevant under Section 8 of the IEA.

Section 27 was further clarified in another case [10], where an example was given of an accused revealing the location of a knife. If the accused knows that an object is hidden in a specific place and significant to the case, then the discovered fact is admissible under Section 27. On the other hand, if the accused merely mentions using a knife to commit a crime, this does not qualify as a discovery of fact.

Section 30 of the law allows for a statement of confession to be used against the person confessing but also against any co-accused who may be mentioned in the report. Although confession statements are generally only admissible against the person confessing, this section provides an exception under the law.

It's important to note that if an accused person confesses without the presence of a co-accused, it cannot be used as evidence against the co-accused. This is because the confession was given before the trial, and the co-accused did not have the opportunity to be present or cross-examined.

Therefore, a confession made by a co-accused is generally considered to be weak evidence.

When a criminal provides information about another criminal, the court will carefully consider it. This information can only be relied upon if additional evidence supports it. Confessions will only be used as evidence after the court has obtained independent corroboration. It is essential to avoid using an uncorroborated confession to ensure that the corroboration is voluntary and truthful.

### Admission vs Confession

Admission	Confession
Admission is possible in both civil and criminal cases.	Confessions are only made in criminal cases.
Sometimes admissions are not given willingly. In these situations, although the admission may have some value as evidence, its significance may be reduced.	As discussed in Section 24, confessions must always be voluntary to be considered relevant statements.
Confession can only be used against the person who makes it, whereas an admission can be used to incriminate a person or to support retracted. However, a retracted confession is the person who made the statement. possible, while retracted access is not.	
Admission is a broad concept that differs from confession.	Not every admission is a confession, but every confession is an admission.

### Conclusion

In matters when someone acknowledges something without admitting guilt, it can still serve as evidence to establish facts or demonstrate innocence. This kind of acknowledgement is particularly relevant in civil cases. While it is considered evidence, it does not necessarily constitute proof. It's worth noting that if one defendant acknowledges something, it cannot be used as evidence against individuals involved in the case. In a lawsuit, an acknowledgement can be seen as an indication of the liability of the defendant.

On the hand, a confession is an explicit admission of guilt. If someone confesses, it can prove their culpability in court. If multiple individuals accused of a crime confess, it can lead to the conviction of all parties involved. When someone directly admits guilt, it is referred to as a confession.

### References

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2. KI Pavunny v. Assistant Collector, Central Excise (1997) (SC) [3] Pyare lal Bhargava v. State of Rajasthan (1963) (SC) 1963 AIR 1094
3. Illias v. Collector of Customs (1970) AIR 1065.

4. Bheru Singh v. State of Rajasthan. (1994) SCR (1) 559.
5. The Malimath Committee on Reforms of Criminal Justice System: Premises, Politics and
6. Implications for Human Rights (Pg:65)
7. Jaffer Hussein Dastagir v. State of Maharashtra 2 SCR 332 (1970) (SC)
8. Asar Mohammad v. State of UP AIR 2018 SC 5264
9. Amin v. State of UP AIR 1958 All 293 (HC)
10. Pulukuri Kotayya v. King Emperor UKPC 52 (1946)
11. under Section 17 of the Evidence Act

### Books

1. The Indian Evidence Act, enacted in 1872, was authored by James Fitzjames Stephen.
2. The subject of discussion is the Indian Evidence Act, specifically Act No. 1 of 1872, authored by Sir Henry Stewart Cunningham in 1872.
3. The scholarly work "D. Field's Law of Evidence in India and Pakistan", authored by Charles Dickenson Field and T. L., encompasses a comprehensive examination of the legal principles and regulations governing the admissibility and evaluation of evidence in the jurisdictions above. In 1970, Venkatarama Aiyar's work can be found in a limited preview.
4. The Indian Evidence Act, often known as Act No. The document titled "The Indian Evidence Act of 1872: As Amended by Act by India, Tarapada Banerji · 1896" is a legal text that outlines the provisions and amendments made to the Indian Evidence Act of 1872. This document, authored by Tarapada Banerji in 1896, is a comprehensive resource for understanding the legal framework and modifications introduced to the Indian Evidence Act during that period.
5. The subject of discussion is the Indian Evidence Act, namely No. 1 of 1872, which has undergone amendments as per the Act by India under the authorship of Sir Henry Stewart Cunningham in 1873.
6. This commentary analyses the Indian Evidence Act of 1872, authored by Dr Pushkal Kumar Pandey in 2020.
7. In 1867, John Bruce Norton authored a comprehensive work titled "The Law of Evidence Applicable to the Courts of the East."
8. The topic of discussion is the foundational principles of the Indian Evidence Act, as presented by Dr Shashikant Singh.
9. The Indian Evidence Act, often known as Act No. The work titled "I of 1872" was authored by Sir Henry Stewart Cunningham in 1878.

### Online resources

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