

PGS NATIONAL COLLEGE OF LAW

EVIDENCE ACT

UNIT-1

1. Define Admission. What are the persons by whom admission can be made?

Ans- An admission is a statement, oral or documentary [or contained in electronic form], which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances hereinafter mentioned.

The section 17 points to three things. It first defines "admission", in terms of a statement which may be oral or documentary or in electronic form. Secondly, the Section says that an admission will be relevant only if it is made by any of the person specified in the Act. The list is to be found in S. 18. Thirdly, the section says that it will be relevant only in the circumstances mentioned in the Act. Such circumstances are mentioned in sections 18-30.

the section says that an admission is a statement which suggests some inference as to the existence of a fact in issue or a fact relevant to the issue. If, for example, a person is sued for the recovery of a loan and there is an entry in his account books recording the fact of the loan, that is an admission on his part of his liability or if he makes any statement to the effect that "he does owe the money" that will also be an admission being a direct acknowledgment of liability. It will dispense with the necessity of any further proof of the fact of the loan.

Reasons for admissibility of admissions:-

An admission is relevant evidence. Several reasons have been suggested for receiving admissions in evidence.

1. Admissions as waiver of proof

The first is that if a party has admitted a fact, it dispenses with the necessity of proving that fact against him. It operates as a waiver of proof. To a certain extent this principle has been expressly adopted by section 58 of the Indian Evidence Act

2. Admissions as statement against interest

The second suggested reason is that an admission, being a statement against the interest of the maker, should be supposed to be true, for it is highly improbable that a person will voluntarily make a false statement against his own interest.

3. Admissions as Evidence of Contradictory Statements

a party can prove all his opponent's statements about the facts of the case and it is not necessary that they should be inconsistent with his case.

4. Admissions as Evidence of Truth

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The last and most plausible and perhaps widely accepted reason that accounts for relevancy of admissions is that whatever statements a party makes about the facts of the case, whether they be for or against his interest, should be relevant as representation or reflecting the truth as against him.

Persons whose admissions are relevant

Section 18 lays down the list of persons whose admissions constitute evidence against a party.

The effects of sections 18, 19 and 20, when put together, are that the admissions of following parties become relevant:

1. Parties to suit or proceeding

All the statements of a party to a suit relating to the facts which suggest some inference as to a relevant fact or a fact in issue are relevant.

2. Agents of Parties

A statement by an agent in the ordinary course of the business of agency is an admission against the principal.

3. Statements in representative character

A person who sues or is sued in a representative character, any statement made by him during the time that he holds such character is an admission against the party whose representative he is.

4. Statement of Third Parties

This category will include the statements of the following parties :

- (a) Persons having pecuniary or proprietary interest.
- (b) Persons from whom the parties derived their interest.
- (c) Persons whose position is in issue or is relevant.
- (d) Persons expressly referred to.

A. Persons having pecuniary or proprietary interest in subject-matter [S. 18(1)]

Statement of persons who, though not parties to the proceeding, have a pecuniary or proprietary interest in the subject-matter of the proceeding, are relevant provided that the statement is made by any such person in the character of his interest.

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B. Predecessor-in-title

Statements made by the person from whom the parties to the suit have derived their interest in the subject matter of the suit are admissions provided they are made during the continuance of the interest of the persons making the statements. A person of this kind is called a "predecessor-in-title". Any statement made by him about the property while he was holding the title is relevant against the parties who acquired the title from him.

2. Can a confession made to a Police officer be proved against an accused person? State the object and principles in this record.

Ans- The term "confession" is nowhere defined in the Evidence Act.

The definition of "confession" appearing in Stephen's DIGEST OF THE LAW OF EVIDENCE is more or less to the same effect:

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.

Confession to police officer not to be proved.-Sec25

No confession made to a police officer, shall be proved as against a person accused of any offence.

Reasons for exclusion of confessions to police

Another variety of confessions that are under the Evidence Act regarded as involuntary are those made to a police personnel. Section 25 expressly declares that such confessions shall not be proved.

If confessions to police were allowed to be proved in evidence, the police would torture the accused and thus force him to confess to a crime which he might not have committed. A confession so obtained would naturally be unreliable. It would not be voluntary. Such a confession will be irrelevant whatever may be its form, direct, express, implied or inferred from conduct.

Effect of police presence

The mere presence of the policeman should not have this effect. Where the confession is being given to someone else and the policeman is only casually present and overhears it that will not

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destroy the voluntary nature of the confession. But where that person is a secret agent of the police deputed for the very purpose of receiving a confession, it will suffer from the blemish of being a confession to police.

Exclusion of confessional statements only

This principle of exclusion applies only to statement which amount to a confession. If a statement falls short of a confession, that is, it does not admit the guilt in terms or substantially all the facts which constitute the offence,

Who is police officer?

A police officer means for this purpose a member of the regular police force, but the Supreme Court has held that the expression would include any person who is clothed with the powers of a police officer. Thus excise inspectors and sub-inspectors enjoying police powers were held to be police officers. The powers of investigation was considered by the court as the most important symbol of police power for it is this which "establishes a direct relationship with the Prohibition enacted in Section 25". A police patil has been held to be police officer? An officer under the State Reserve Police Force Act who was posted at a flag hoisting for law and order was held to be not a police officer for purposes of Section 25 because he was not vested with the powers of investigation.

In reference to customs officers the Supreme Court did not find them possessing the powers of a police officer and held them to be outside the purview of section 25.2 Similarly, officers under the Narcotic Drugs & Psychotropic Substances Act, 1985 have been held to be not police officers though they are vested with some of the powers of officers-in-charge of a police station.

Statement not amounting to confession

A statement which does not amount to confession is not hit by the bar of the section. A statement in the course of investigation was that the design was carried out according to the plan. The statement did not refer to the persons who were involved in the murder, nor did the maker of the statement refer to himself. This was held to be not a confessional statement. Hence, not hit by Section 25.

Confession in police custody

No confession is made to anybody while the person making it is in police custody is provable. The section will come into play when the person in police custody is in conversation with any person other than a police officer and confesses to his guilt. The section is based upon the same fear, namely, that the police would torture the accused and force him to confess, if not to the police officer himself, at least to someone else. The confessions made to a police officer or to anyone else while the accused is in police custody are not different in kind and quality. Both are likely to suffer from the blemish of not being free and voluntary.

Confessions to police and consequential discoveries

Under the Evidence Act, there are two situations in which confessions to police are admitted in evidence.

1. One is when the statement is made in the immediate presence of a Magistrate, and
2. The second, when the statement leads to the discovery of a fact connected with the crime. The discovery assures the truth of the statement and makes it reliable even if it was extorted. This is so provided in Section 27.

The section is quite apparently laid out as a proviso or an exception to the preceding section which deal with confessions in police custody and other involuntary confessions.

3. Preparation by itself is not a crime. Discuss by giving the provision of Relevancy of preparation.

Ans- Section 8 provides for the relevancy of three principal facts which are very important in connection with every kind of civil or criminal case. They are :

1. Motive;
2. Preparation and
3. Conduct.

Motive, preparation and previous or subsequent conduct. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

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Preparation

Section 8 provides that acts of preparation are relevant. It says that facts which show or constitute preparation for any fact in issue or relevant fact are relevant. Preparation by itself is no crime. The act of purchasing a pistol for the purpose of shooting down a man or a match box for burning a house is by itself no offence. But once an offence has been committed, the evidence of preparation becomes most important for the crime must have been committed by the man who was preparing for it. Thus, for example, the sharpening of a knife before an affray in which the knife was used is relevant as an act of preparation. For the same reason, it is relevant to show that the accused hired a revolver a few days before the murder. Illustration (c) refers to an act of preparation. Where death is caused by poisoning, the fact that shortly before the accused procured poison similar to that which was administered is relevant. The illustration is close to the facts of **R. v. Palmer**,¹ where drawing the attention of the jury to an act of preparation LORD CAMPBELL, C.J. said :

Then, gentlemen, comes the more direct evidence that the prisoner procured this very poison for what purpose was that obtained? You have no account of that purpose. What was the intention with which it was purchased, and what was the application of it, you are to infer.

Illustration (d) of Sec 8 refers to the acts of preparation that go before the making of a will. In reference to wills the question usually arises whether the will is genuine or forged. The illustration says that not long before the date of the will, the testator made inquiries into the matter to which the provisions of the will relate, that he consulted vakils in reference to making the will and that he caused drafts of other wills to be prepared of which he did not approve, are relevant. These acts of preparation go to show that the will may be genuine.