



DELHI LAW ACADEMY

BHARATIYA SAKSHYA ADHINIYAM

Sections 15 - 23

Delhi Law Academy – India's Finest Law Coaching

Judicial Services, LLM Entrance

www.delhilawacademy.com

All materials, copyrights and trademarks are rights of their respective owners



BHARATIYA SAKSHYA ADHINIYAM [Sections 15 - 23]

DEFINITION OF ADMISSION

Section 15

- 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*
 - which is made by specified persons under specified circumstances

Comments by DLA on section 15:

Q: What is an admission?

Ans:

- **Admission** has been defined to be a statement, oral or documentary or 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, mentioned in sections 16 to 19.

[Source: **Supreme Court in CBI v. V. C. Shukla**]

Q: Who can make admissions?

Ans: Admissions can be made

- by a party to the proceeding or his agent [Sec 16]
- by a person whose position must be proved [Sec 17]
- by a person who is expressly referred [Sec 18]



Section 16

- Statements made by
 - a **party to the proceeding or his agent**
- are admissions

Section 17

- Statements made by
 - persons whose position or liability it is necessary to prove
- are admissions
 - if such statements would be relevant for such position or liability

Illustration

- A undertakes to collect rents for B
 - B sues A for not collecting rent due from C to B
 - A denies that rent was due from C to B
- **Statement by C** that he owed B rent
 - is an admission and
 - is a relevant fact as against A if A denies that C did owe rent to B

Section 18

- Statements made by persons
 - to whom party to suit has **expressly referred for information**
- are admissions

Illustration

- The question is
 - whether a horse sold by A to B is sound
- A says to B
 - " Go and ask C, he knows all about it"
- **C's statement** is an admission



ADMISSIONS ARE RELEVANT AND MAY BE PROVED

Section 19

- **Admissions are relevant** and *may be proved*
 - **as against** the person who makes them
- **but they cannot be proved**
 - **by** the person who makes them
- **except** in following cases:

(1)

- when the admission is such that
 - if the person making it were dead it would be relevant u/s 32

(2)

- when it is *a statement of existence of any state of mind or body*
 - made at the time when such state of mind or body existed and
 - *is accompanied by conduct* rendering its falsehood improbable

(3)

- if it is relevant otherwise than as an admission

Illustration (a)

- The question is whether a certain deed is or is not forged
 - A affirms that it is genuine, B that it is forged
- A may prove **a statement by B** that the deed is genuine
 - but A cannot prove **a statement by himself** that the deed is genuine



Illustration (b)

- A, the Captain of a ship, is tried for casting her away
 - A produces a book kept by him *in ordinary course of his business*
- A may prove the statements in this book
 - because they would be admissible if he were dead u/s 32 clause (2)

Comments by DLA on section 19:

- Section 15 defines 'admission', Ss. 16 to 18 lay down what statements are admissions, and s. 19 deals with proof of admissions against persons making them.
- Statements may be proved as admissions under Section 16 read with Section 19 of the Act *provided they relate to 'any fact in issue or relevant fact.'*

Q: What is the impact of an admission?

Ans 1:

- *An admission by a party is substantive evidence if it fulfils the requirements of Section 19 of the Bharatiya Sakshya Adhiniyam*
- Admissions are usually telling against the maker unless reasonably explained.
- There is no necessary requirement of the statement containing the admission having to be put to the party because it is evidence **proprio vigore**.

[Authority: **Supreme Court in Bishwanath Prasad v. Dwarka Prasad**]



Ans 2:

- *“Admissions are substantive evidence by themselves, in view of Sections 15 and 19 of the Bharatiya Sakshya Adhiniyam, though they are not conclusive proof of the matters admitted.*
- Admissions duly proved are admissible evidence irrespective of whether the party making them appeared in the witness box or not and whether that party when appearing as witness was confronted with those statements in case it made a statement contrary to those admissions.

[Authority: **Supreme Court in Bharat Singh v. Bhagirathi 1965**]

Ans 3:

- *It is not disputed that statements made by persons may be used as admissions against them even though they may not have been communicated to any other person.*
- For example, statements in the Account books of a person showing that he was indebted to another person are admissions which can be used against him even though these statements were never communicated to any other person

[Authority: **Supreme Court in Bhogilal Chunilal Pandya v. State of Bombay**]

Q: Can part only of an admission be used against the maker of such admission?

Ans:

- No.
- *If an admission of an accused is to be used against him, the whole of it should be tendered in evidence, and if part of the admission is exculpatory and part inculpatory, the prosecution is not at liberty to use in evidence the inculpatory part only.*

[Authority: **Supreme Court in Aghnoo Nagesia v. State of Bihar**]



Section 21

Oral admissions as to contents of documents

- Oral admissions as to contents of a document
 - are not relevant
- **unless** the party *is entitled to give secondary evidence* of the contents

CONFESSIONS

Certain confessions are not relevant:

- Confessions caused by certain types of inducements, threats or promises [Sec 22]
- Confessions made to a police officer [sec 23(1)]
- Confessions made while in custody of police [sec 23(2)]

However, **Proviso to** section 23 provides an exception to the prohibition contained in the preceding sections and enables certain statements made by a person in Police custody to be proved.

Q: What is a confession?

Ans 1:

- “A confession must either admit in terms the offence, or at any rate substantially all the facts which constitutes the offence.
- An admission of a gravely incriminating fact, even a conclusively incriminating fact, is not of itself a confession, e.g. an admission that the accused is the owner of and was in recent possession of the knife or revolver which caused a death with no explanation of any other man's possession.”

[Authority: **Privy Council in Pakala Narayana v. Emperor [1939]**]



Ans 2:

- *Only voluntary and direct acknowledgement of guilt is a confession.*

Authority: **CBI v. V.C. Shukla [1998 SC]**

Ans 3:

- *A statement which contains an exculpatory assertion of some fact, which if true, would negative the offence alleged cannot amount to a confession.*

[Authority: **Supreme Court in Veera Ibrahim v. State of Maharashtra [1976]**

Confessions caused by certain types of inducements, threats or promises

Section 22

- A **confession** made by an **accused** person
 - **is irrelevant** in a criminal proceeding
- if the confession was caused by any *inducement, threat or promise*
 - which proceeded *from a person in authority*
 - which was sufficient to make the accused person suppose that
 - by making it he would gain an **advantage** or avoid an **evil**
 - *in reference to* the proceedings against him

Comments by DLA on section 22

Q: When is a person said to be "accused of an offence" as used in section 22?



Ans:

- “Normally a person stands in the character of an accused when a first information report is lodged against him in respect of an offence before an officer competent to investigate it, or when a complaint is made relating to the commission of an offence before a magistrate competent to try or send to another magistrate for trial of the offence.

[Authority: **Supreme Court in R.C. Mehta v. State of West Bengal [1970]**]

Q: When is the prohibition enacted u/s 22 attracted?

Ans:

- To attract the prohibition enacted in Section 22, these facts must be established:
 - (i) that the statement in question is a confession;
 - (ii) that such confession has been made by an accused person;
 - (iii) that it has been made to a person in authority;
 - (iv) that the confession has been obtained by reason of any inducement, threat or promise proceeding from a person in authority;
 - (v) such inducement, threat or promise must have reference to the charge against the accused person;
 - (vi) the inducement, threat or promise must be sufficient to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

[Authority: **Supreme Court in Veera Ibrahim v. State of Maharashtra [1976]**]



Q: Whether the oath administered by a custom officer to state the truth can vitiate the confession?

- While it may be conceded that a person summoned by an officer of customs to make a statement under Section 108 of the Customs Act is under compulsion of law to state the truth, the compulsion thereunder, assuming it amounts to a threat, does **not** proceed “*from a person in authority*” within the contemplation of Section 22 *but emanates from law*.
- So, the confession if made is not vitiated

[Authority: Supreme Court in **Veera Ibrahim v. State of Maharashtra** [1976]

Confessions made to a police officer

Section 23(1)

- **No confession made to a police officer**
 - shall be proved
 - against a person *accused of any offence*

Confessions made while in custody of police

Section 23(2)

- No confession made by any person
 - **whilst he is in the custody of a police officer**
- shall be proved against him
 - unless it be made in immediate presence of a Magistrate



Comments by DLA on section 23(2):

Q: Can a confessional FIR be used against the informant-accused?

Ans:

- If the first information is given by the accused himself, the fact of his giving the information is admissible against him as evidence of his conduct under Section 6 of the *Bharatiya Sakshya Adhiniyam*.
- *If the information is a non-confessional statement, it is admissible against the accused as an admission under Section 19 of the Bharatiya Sakshya Adhiniyam and is relevant.*
- But a confessional first information report to a police officer cannot be used against the accused in view of Section 23 of the *Bharatiya Sakshya Adhiniyam*.

[Authority: **Supreme Court in Aghnoo Nagesia v. State of Bihar [1966]**]

Exception to section 23

Certain information received from an accused in police custody may be proved

Proviso to section 23

- When any **fact is deposed to**
 - **as *discovered*** in consequence of
 - information received from an accused person in custody of a police officer
- so much of such information as relates distinctly to the fact thereby discovered
 - may be proved



Comments by DLA on Proviso to section 23

Proviso to section 23 provides an **exception** to the prohibition imposed by the main section, and enables certain statements made by a person in Police custody to be proved.

- *The condition necessary to bring the section into operation is that the discovery of a fact in consequence of information received from a person accused of any offence in the custody of a Police Officer must be deposed to, and thereupon so much of the information as relates distinctly to the fact thereby discovered may be proved.*
- *The section seems to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true, and accordingly, can be safely allowed to be given in evidence*

[Authority: Sir John Beaumont, Privy Council, in **Pulukuri Kottaya v. Emperor [1947 PC]**

Q: What exactly is the meaning and scope of "fact discovered" in proviso to section 23?

Ans:

- *It is fallacious to treat the "fact discovered" within the section as equivalent to the object produced;*
- ***the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact.***
- *Information as to past user or the past history of the object produced is not related to its discovery in the setting in which it is discovered.*



[Authority: Sir John Beaumont, Privy Council, in **Pulukuri Kottaya v. Emperor [1947 PC]**]

An illustration to understand the scope of proviso to section 23

- Information supplied by a person in custody that “I will produce a knife concealed in the roof of my house” does not lead to the discovery of a knife; knives were discovered many years ago. *It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge*, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant.
- But if to the statement the words be added “with which I stabbed A”, these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

Note:

- This illustration has been taken from Privy Council's judgment in *Pulukuri Kottaya v. Emperor*.

Q: Which confessions are not admissible?

Ans:

- Confessions made under the circumstances specified under section 22 and before persons specified in section 23 are **not admissible** except under circumstances specified in proviso to section 23.



Rationale behind their inadmissibility

- *That ban was presumably inspired by the fear of the Legislature that a person under Police influence might be induced to confess by the exercise of undue pressure*

[Authority: *Pulukuri Kottaya v. Emperor*]

Q: What is the difference between an admission and a confession?

Ans 1:

- “The distinction between admissions and confessions is of considerable importance for two reasons.
- Firstly, a statement made by an accused person, if it is an admission, is admissible in evidence under Section 19 of the *Bharatiya Sakshya Adhiniyam*, unless the statement amounts to a confession and was made to a person in authority in consequence of some improper inducement, threat or promise, or was made to police officer, or was made at a time when the accused was in custody of a police officer. If a statement was made by the accused in the circumstance just mentioned its admissibility will depend upon the determination of the question whether it does not amount to a confession. It will be inadmissible, but if it does not amount to a confession, it will be admissible under Section 19 of the *Adhiniyam* as an admission, provided that it suggests an inference as to a fact which is in issue in, or relevant to, the case and was not made to a police officer in the course of an investigation under Chapter XIV of CrPC.
- Secondly, a statement made by an accused person is admissible against others who are being jointly tried with him only if the statement amounts to a confession. Where the statement falls short of a confession, it is admissible only against its maker as an admission and not against those who are being



jointly tried with him. Therefore, from this point of view also distinction between admission and confession is of fundamental importance.”

[Authority: **Monir's Law of Evidence**]

Ans 2:

- *Only voluntary and direct acknowledgement of guilt is a confession, but when a confession falls short of actual admission of guilt it may nevertheless be used as evidence against the person who made it as an 'admission' under section 19 of the Bharatiya Sakshya Adhiniyam.*

[Authority: **Supreme Court in CBI v. V. C. Shukla [1998]**]

CASE LAW ON SECTIONS 15 - 23

- | | | | |
|----------------------|----|----------------------|-----------|
| 1. Bishwanath Prasad | v. | Dwarka Prasad | [1974 SC] |
| 2. Bharat Singh | v. | Bhagirathi | [1965 SC] |
| 2. CBI | v. | V. C. Shukla | [1998 SC] |
| 3. Veera Ibrahim | v. | State of Maharashtra | [1976 SC] |
| 4. Aghnoo Nagesia | v. | State of Bihar | [1966 SC] |
| 5. Pulukuri Kottaya | v. | Emperor | [1947 PC] |
