



## FACULTY OF JURIDICAL SCIENCES

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# Lecture-13



## Confession

Sec 163,164,364,533 of the code of criminal procedure(procedural law on confession)

Sec 24-26 lays down when confessions are not relevant and sec 27-29 provided the limitation of the operation of the principle of sec 24-26.

### **Definition**

Confession is not defined in the Indian Evidence Act, but the term 'confession' mentioned in the sec 24 of the Act. Sec 24 is under the category of the admission. Hence, Confession is a one of the species of the admission. A definition given by the Stephon is "*Confessionis an admission made anytime by a person charged with a crime stating or suggesting the inference that he committed that crime.*"

Thus it can be defined as an statement of an accused is confession if

- a. He states that he has committed a crime he is charged with,or
- b. He states something from which inferences can be drawn that he might have committed the crime.

The first part of definition is clear, when a statement made by the accused is voluntary, direct, unambiguous, not vague, and is like that ' I have committed it'. It is confession.

The second part is not simple in the definition. In **Pakala Narayan Swami v King Emperor(AIR 1939 PC 47**, it was held that "no statement that contains self-exculpatory matter can amount to confession if the exculpatory part of the statement is of some fact which if true would negative the offence alleged to be committed.

"An admission of gravely incriminating fact is of not itself a confession i.e an admission that an accused is an owner of and is in recent possession of the knife or revolver which cause the death with no explanation with any others man possession is not confession event though it very strongly suggest that the accused has committed the offence.

Wigmore gives another definition

"A confession is an acknowledgement in express words by the accused in the criminal case of the truth of the guilty fact charged or of some essential part of it. It is to this class of statements

only that the present principle of exclusion applies”.

In **Pulvinder Kaur v State of Panjab AIR 1952 SC 354** it was held that “a confession must either admit in terms the offence or at any rate substantially the facts which constitute offence”.

**For example** in case where A makes a statement that he has killed B. such statement is confession.

In case where A makes a statement that B abused him, and he hold the neck of B and drowned in the tank. Such statement is confession.

In case where A makes a statement he was with B. C came there. B and C were quarreled. He tried to stop C but he stabbed B.

By such statement an inference can be drawn about the implication of A in the murder of B. The statement atleast shown that A was present at the time of the murder of the B. But such statement is not confession because he neither admits the guilt, nor substantially admits facts which constitute the offence.

The statement here means both oral or written or in any other form.

It is not required a statement to be a confession must in form of ‘communication to other’. It may be like ‘uttering to himself’ to other in confidence, uttered something in soliloquy. It may be form of note in writing. All these are not ‘statement’ but if such statement is admission of guilt, it is confession.

Further mere conduct is not confession. An act or conduct to be a confession, must amount to assertion. For example, absconding is not a confession and mere giving specimen of handwriting for comparison of the hand writing is neither a confession nor a statement.

Exculpatory statements are not confession, for example, if an accused makes such statement which excludes him from the liability of committing an offence is not confession.

In **Aghnoo Nagesia v State of Bihar(1966)1SCR 134**.it was held that a statement which contains self exculpatory matter cannot amount to a confession if the exculpatory statement is of the some fact which if true would negative the offence alleged to be confessed.

Where statement made by the accused regarding any fact which is partly inculpatory and

partly exculpatory the Court is bound to consider the confession as a whole.

## **Types of Confession**

### **1. Judicial Confessions and**

### **2. Extra Judicial Confessions**

#### **1. Judicial Confessions:**

**When a confession is made by the offender before a magistrate or in a Court in the due course of legal proceeding, it is called judicial confession.** When an accused before trial confess the guilt before magistrate, and magistrate records it under sec 164 of the Cr.PC, or he confess guilt at committal of trial before the magistrate, or at the trial, all such confession are judicial confessions. Thus a judicial confession can be understood as voluntary 'plea of guilty' by the accused before the Court, in fit state of mind.

#### **2. Extra Judicial Confessions**

When a confession is made to any other person and elsewhere the court, it is called **extra judicial confession**. It is not required that such confession is addressed to someone, it may be in the form of 'utterance, or prayer, or letter to relative, etc. It may be to any one, known, unknown, intentional, unintentional, oral or documentary.

When an accused repudiated the confession in the trial, which he made before the trial, such confession is called **retracted confession**.