



FACULTY OF JURIDICAL SCIENCES

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SUBJECT: Law of Evidence

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Lecture-15



Confession when Relevant

Confession to the Police Officer or in the Police custody is relevant

- I. When a statement is made in the immediate presence of the magistrate under sec 26, and
- II. When the statement leads to the discovery of a fact connected with the crime under sec 27.

Confessions under following circumstances are relevant and admissible

- I. When any fact is discovered as discovered in consequence of information received from the accused person in the custody of the Police officer (sec 27)
- II. Confession made after removal of threat, inducement or promise (sec 28)
- III. Confession otherwise relevant not to become irrelevant because of promise of secrecy (sec 29)

When any fact is discovered as discovered in consequence of information received from the accused person in the custody of the Police officer (sec 27)

Sec 27 provides “ *provided that , when any fact is discovered as discovered in consequences of information received from the person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered may be proved*”

Sec 27 is an exception to the sec 25 and 26. It is based on the principle that if confession of the accused is supported by the discovery of a fact, it produces some guarantee of truth and not to be extracted by the police. In general, sec 27 applied in the case where a person in the police custody produces some objects, such as weapon used in the offence, dead body, or any other thing, from some place, where it was concealed by the accused at the time of the commission of the offence or after the commission of the offence, which is connected with the offence for which accused is informant.

It provides that in case where evidence is led to the effect that some fact is discovered in response to the information given by the accused in the police custody, such information can be proved as an evidence, irrespective of the fact it is confession or statement.

Two conditions required for the application of sec 27

- a. Such discovery of the fact, concerned with the offence is by the reason of the information given by the accused in the custody.
- b. Such information distinctly relates to the discovery.

Both of these conditions must be satisfied for the admissibility of such statement under sec 27.

Only such part is accepted which is immediate, direct or approximate cause not the remote cause of the discovery of the fact. It can be explained as “what offender did to the weapon(discovered thing)” not “what offender did with the weapon(discovered thing)” because the later part is remotely connected with the fact.

For example; A statement “I will produce the knife concealed in the roof of my house with which I stabbed B”. This statement does not lead to the discovery of a knife. But it leads to the discovery of the fact that knife is concealed at the place known to the informant and if it is proved that same knife is used in the commission of the offence, the discovered fact is relevant under sec 27.

How much such statement is admissible is explained in the (Kottaya v Emperor, AIR 1947PC 47). The Court held from the whole statement except the passage “I hid the spear and my stick in the rick in the village. I will show if you come” is admissible, and rest is inadmissible as only this part of the statement connects the object discovered with the offence(read the facts of the Kottaya v Emperor, AIR 1947PC 47 Prabhu v State of UPAIR 1963SC 1113.)

Confession made after removal of threat inducement etc(sec 28)

“ If such a confession as is referred to in sec 24 is made after the impression caused by the inducement threat or promise has in the opinion of the Court been fully removed”.

Sec 28 deals with the validity of the confession which is made after the effect of inducement(effect of inducement over through the lapse of time) is already over thus confession which are rendered irrelevant under sec 24 become relevant under sec 28.

Confession otherwise relevant not irrelevant because of promise of secrecy (sec 29)

If a confession is otherwise relevant does not become irrelevant merely because it was made

- a. Under a promise of secrecy
- b. In consequence of a deception practiced on the accused person for the purpose of obtaining it or
- c. When the accused was drunk, or
- d. In answer to questions he need to have answered, or

When the accused was not warned he was not bound to make such confession and that evidence of it be given against him(except judicial confession under sec 164).