



FACULTY OF JURIDICAL SCIENCES

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SUBJECT: Law of Evidence

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Lecture-18



Evidentiary value of the Confession

Judicial Confession

Judicial confession is a substantive evidence and conviction can be based on that solely. It is well settled that if confession is made voluntarily and truthfully, is a efficacious proof of guilt and further corroboration is not required.

Extra Judicial Confession

It is very weak piece of evidence and has to be received with care and caution. It can be relied only when it is clear, consistent and convincing. To use extra judicial confession as a evidence Court requires some material, independent or satisfactory corroboration. It should not suffer from any material discrepancies and inherent improbabilities. When the foundation of conviction based on the extra judicial confession it is required to prove three things

- i. Confession was made
- ii. Evidence has to be given that it was made voluntarily
- iii. It is true.

An extra judicial confession is required to prove like any other fact and in accordance with law. The value of the confession is based on the veracity of the witness to whom it is made.

Retracted Confession

It is unsafe to base the conviction on the retracted confession unless it is corroborated by the trustworthy evidence. The court may take in to account the retracted confession, after examining the reason of making it and also the reasons of the retraction to determine that whether retraction affects the voluntary nature of the confession or not. (State (NCT of Delhi) v Navjot Sidhu (AIR 2005 SCW4148)). See the case Pyre Lal Bhargya v State of Rajasthan AIR 1963SC 1094

Confession of Co accused

It is settled principle of law that confession of Co accused person cannot be treated as substantive piece of evidence and can be pressed into a service only when the Court is inclined to accept other evidence and feels the necessity of seeking for an assurance in support of the

conclusion deducible therefrom (Mohtesham Mohd. Ismail v. Spl. Directorate, (2007) 8SCC 254 para 190.

In *Kashmira Singh v State of Madhya Pradesh* AIR 1952 SC 159 “ the confession of a co accused is not evidence” with n the meaning of that term as defined in sec 3 of Indian evidence Act. It is no required to be recorded on oath and it cannot tested by cross examination. It is an evidence of very weak kind and is much weaker even the evidence of an approver or an accomplice.

However the general practice applied in the high courts of India to require the corroboration for confession of a co accused. The Corroboration must be on material particulars, such as point out the indubitably the identification of person charged with the particular act with which the confession of accused connects it. For example: merely pointing of a stolen property some months after the theft is not sufficient corroboration of such a confession on a charge of house breaking. (*Q.E v Dasu Jiva* 10 bom 231) Secondly corroboration must be by independent evidence and not by the testimony of an accomplice nor by the confession of another accused, such a confession carries an inferior evidentiary value. (*Shariff v E.* 1944 Lah 172).