



## FACULTY OF JURIDICAL SCIENCES

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# Lecture-22



## **Statements which become relevant on account of the special circumstances**

There are five kinds of statements which become relevant on account of the special circumstances in which they are made.

### **1. Regular entries in account books (S. 34):**

Entries in books of account, including those maintained in an electronic form, regularly kept in the course of business, are relevant, whenever they refer to a matter into which the Court has to inquire; but such statements are not alone sufficient evidence to charge any person with liability.

**Illustration:** A sues B for Rs. 1,000, and shows entries in his account book showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.

This section is based upon the principle that entries made regularly in the course of business are likely to be accurate. In all such entries, the writer has full knowledge, no motive for falsehood, and there is the strongest improbability of untruth.

This section provides (1) that entries in books of account regularly kept in the course of business are relevant, and therefore admissible, whenever they refer to a matter into which the Court has to enquire; and (2) that such entries, though admissible, are not alone sufficient to charge a person with liability, unless corroborated by other evidence.

But such entries admitted under section 32(2) are substantive evidence and can be made the basis of judgment to charge the person with liability,

Under the English common law, entries in a person's books of account in support of his own claim are generally not admissible in his favour, on the principle that a man cannot make evidence for himself. S. 34 of the Indian Act is based on Roman law and conforms to the French and American rules of law on this point.

### **2. Entries in public and official books (S. 35):**

An entry in any public or other official book, register or record or an electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record or an electronic record is kept, is itself a relevant fact.

Under this section, when it is the duty of a public officer to make certain entries in any public or other official book, it is admissible in evidence to prove the truth of the facts so entered, as well as the fact that entries were made by such officer. The reason for this rule is that when a public servant makes an entry in the discharge of his official duty, the probability of its being truthfully recorded is quite high. It is presumed in such cases that the officer is discharging his duty with accuracy and fidelity.

In a case decided by the Madhya Pradesh High Court, it was held that a birth entry in the Register of Births and Deaths can be taken as the basis for determining the age of the accused. It was also held that the opinion of a radiologist cannot be preferred over such an entry. (*Anita v. Atal Bihari*, 1993 Cri. L.J. 549)

In a case decided by the Supreme Court, a School Certificate was produced as proof of the age of the accused. However, the Certificate did not mention the name of the school from where the transfer certificate was obtained and on the basis of which certificate the accused was admitted to the school. In the circumstances, it was held that the School Certificate could not be relied upon for proving the age of the accused. (*Jagtar Singh v. State of Punjab*, 1993, Cri. L.J. 2886)

### **3. Statements in maps and charts (S. 36):**

Statements (of facts in issue or relevant facts) made in—

- (i) Published maps or charts, generally offered for public sale, or
- (ii) Maps or plans, made under the authority of the Central Government or any State Government as to matters usually represented or stated therein are themselves relevant facts.

### **4. Statements in Acts of Parliament of England or India (S. 37):**

Statements of any facts of a public nature (as to the existence of which the Court has to form an opinion) made in a recital contained in any Act of Parliament of the U.K. or in any Central or Provincial Act or a State Act are relevant facts.

### **5. Law of a foreign country (S. 38):**

When the Court has to form an opinion as to law of any country, — any statement of the law of that country contained in a book printed or published under the authority of the Government of such country and any report of a ruling of the Courts of such country, is relevant.

**6. What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers. (S.39)—**

When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or is contained in part of electronic record or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, electronic record, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.]2[39. What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers.—When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or is contained in part of electronic record or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, electronic record, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.