

ADMISSIONS VS. CONFESSIONS*By***—CHERUKURI MASTHAN NAIDU, Advocate
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The Evidence Act, 1872 Sections 17 to 31 deals with the provisions related to admission and confession and their relevance. The above said two concepts play a vital role in the realm of appreciation of evidence in regard to the facts and issue. Admissions and confessions are exceptions to the hearsay rule. The Evidence Act places them in the category of relevant evidence. Presumably on the ground that as they are declarations against the interest of the person making them, they are probably true. The probative value of admission or confession does not depend upon its communication to another, though just like any other piece of evidence, it can be admitted in evidence only of proof. This proof, in the case of oral admission or confession can be offered only the witness, who heard the admission or confession as the case may be.

Both civil and criminal Courts have rules of procedure which allow the parties to reduce the number of facts in issue in a case which have to be proved by evidence. These rules allow a party formally to admit fact in issue or a fact that might assist in proving a fact in issue. A formal admission of this sort determines that particular matter; it is proved no further evidence will be admitted to prove or disprove it and further the general rule is that an admission can only be given in evidence against the party making it and not against the other party and it is also relevant to notice that in terms of legal parlance, that an admission is the best evidence that can be relied upon by an opposite party, but though not conclusive, is decisive of the matter, unless successful withdrawn or proved erroneous.

As indicated above, that the admissions are considered as substantive evidence

however not conclusive proof of matters admitted. On the other hand there is a statutory definition of “confession,” however the expression is often confused with “admission” as well as confessions are dealt with under Section 17 of the Evidence Act. The judiciary in some cases has outlined the difference between the two and long back, the Privy Council in the case of *Pakala Narayana Swamy v. Emperor*, the Court remarked that a confession must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. An admission of a gravely incriminating fact, even a conclusively incriminating fact is not in itself a confession.

The principle laid down in the above case differentiating and enunciating the distinction between the admission and confession :

1. The Confession is only a voluntary and direct acknowledgment of guilt and where as the admission is a statement oral, documentary and in electronic form and when a confession falls short of actual admission of guilt it may be used as an evidence of an incrimination fact and in other words as an admission of fact.
2. Similarly that a confession is made by the accused is sought to be proved in the Court of law and where as the admission usually relates to civil matters and comprises all statements amounting to admission as enshrined under Section 17 of the Evidence Act.
3. Confession is considered as a conclusive proof, but the admissions are considered as substantive evidence and however are not conclusive proof of the matters admittedly.

4. Confession made by one or more accused jointly may be used as an evidence against the co-accused "Under Section 30" and admission by one of the several defendants can not operate as an evidence against the other defendants.
5. Confession is direct admission of guilt, but where as admission amounts to inference about the liability of a person making admission in a suit.

The principle underlying the evidentiary value of the admission may be summarized thus :

An admission constitutes a substantive piece of evidence in the case and for that reason can be relied upon for providing the truth of the facts incorporated therein. An admission has the effect of shifting the onus of proving to the contrary on the party against whom it is produced with the result that it casts an imperative duty on such party to explain it. In the absence of satisfactory explanation, it is presumed to be true. An admission in order to be competent and to have value and effect referred to above should be clear, certain and definite and not ambiguous or confused. As per Section 58 of Indian Evidence Act fact admittedly need not be proved.

Evidentiary value of confession :

The confessions are a sort of species of admissions. The confession, if it is found to be made out of free will, voluntary and genuine then the prosecution can secure a conviction and further if the confession is an out come of voluntary, genuine and out of free will and further supported by corroboration then it can be relied upon to base a conviction and further it is always to be cautious by the Courts before relying upon the confessional statements, because of the confessions may not always be true and they must be checked in the light of the

evidence on record in order to see if they carry conviction it would be very dangerous to act on a confession put into the mouth of the accused by a witness and uncorroborated from any other source. (*White v. R.*, 1945 PC 181).

A confession should not be accepted merely, because it contains a wealth details. Unless the main features of the story are shown to be true, it is unsafe to regard mere wealth of uncorroborated details as a safeguard of truth. The Supreme Court has also observed that, normally speaking, it would not be safe as a matter of prudence, if not of law, to base a conviction for murder on a confession by itself. (*Muthuswamy v. State of Madras*, AIR 1954 SC 47)

Extra Judicial Confession :

Extra Judicial Confession can be three types :

1. Confession made to a police Officer-not admissible under Section 25
2. Confession made in police custody – not admissible under Section 26.
3. Made to any third person neither to police, nor in custody and not to Magistrate, if such a confession is not hit by Section 24, it will be relevant and if proved admissible. So it has evidentiary value depending upon the corroboration of it. Per se an extra judicial confession can not be a ground of conviction unless it is corroborated by other circumstances.

It has been held that extra judicial confession is a piece of evidence, but it has to be pass through a stringent test of corroboration and proof. It can not be sole basis of conviction. Extra judicial confession against a co-accused can be used under Section 30. (*State of M.P. v. Paltan Mallah*, 2005 (3) SCC 169).

Discovery of fact :

Section 27 of the Evidence Act, admissible portion of confessional statement has to be found as to a fact which were the immediate cause of the discovery, only that would be part of legal evidence and not the rest. In a statement if something new is discovered or recovered from the accused which was not in the knowledge of the police before disclosure statement of the accused is recorded is admissible in the evidence. (*Mehboob Ali and another v. State of Rajasthan*, 2016 (14) SCC 640)

Section 27 of the Evidence Act, whatever information given by the accused in consequence of which a fact is discovered only would be admissible in the evidence, whether such information amounts to

confession or not. The basic idea embedded under Section 27 of the Evidence Act is the doctrine of conformation by subsequent events. The doctrine is founded on the principle, that if any fact is discovered in a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information obtained from a prisoner is true. The information might be confessional or non inculpatory in nature, but it is results in discovery of a fact it becomes a reliable information. (*Pawan Kumar @ Monu Mittal v. State of Uttar Pradesh and another*, 2015 (7) SCC 148)

In view of the above legal principles enunciated by the Courts would clearly indicate the distinction between Admission Vs. Confession.

**UNIFORM CIVIL CODE TO AN UN-UNIFORM BAND –
THE LEGAL JUGGERNAUT**

By

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The last step in making India a ‘Secular State’ will be making a Uniform Civil Code (UCC). When the divergent factors have been becoming stronger dividing the citizens, the arguments for and against UCC are coming to the fore, making UCC more and more intriguing. The recent referral¹ of the Union Government of “matters in relation to Uniform Civil Code” to Law Commission of India and the Law Commission’s opinion² that UCC “is neither necessary nor desirable at this stage” and

proposing a “series of amendments to personal laws of all religions and further codification of certain other laws”, appear to have put a temporary full stop to the debate on UCC. But, the constitutional mandate in the form of the directive under Article 44 of the Constitution and concept of ‘one nation and one law’ on one hand and the un-uniform bands and their constitutional rights on the other hand keep the debate on UCC ever lively and relevant making the UCC a legal juggernaut, tempting a crack.

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1. Letter dated 17th June, 2016 of Union Ministry of Law and Justice addressed to Law Commission of India wherein the Commission was asked to examine matters in relation to uniform civil code.
2. expressed in the Law Commission of India’s Consultation Paper on Reform of Family Law dated 31 August 2018