



LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 3

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.271>

© 2026 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: www.lijdlr.com

Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.

In case of any suggestions or complaints, kindly contact (info.lijdlr@gmail.com)

To submit your Manuscript for Publication in the LawFoyer International Journal of Doctrinal Legal Research, To submit your Manuscript [Click here](#)

ADMISSIBILITY AND IRRELEVANCY OF CONFESSIONS: A CRITICAL ANALYSIS

Gautam Gupta¹

I. ABSTRACT

The law of confessions has a very prominent existence in the jurisprudence of evidence at the intersection of effective criminal prosecution and constitutional protection against self-incrimination. This paper makes an attempt for a critical examination of framework governing the relevancy, admissibility and irrelevancy of confessions under the laws governing the same. The term 'confession' is not defined in the statutory framework but is generally understood as an admission or acknowledgment of guilt by the accused. This paper attempts to unpack, through judicial pronouncements, the conceptual distinction concerning what qualifies as a confession and whether it has been made voluntarily or involuntarily. The paper further discusses the evidentiary value accorded to a confession made by a co-accused jointly tried for the same offence, examining Section 24 of the Bharatiya Sakshya Adhiniyam, 2023, which corresponds to Section 30 of the Indian Evidence Act, 1872, and the settled position that such confession is not substantive evidence and cannot, without independent corroboration, form the sole basis of conviction. The paper further makes an attempt to discuss when the confessional statement becomes irrelevant when it is caused by inducement threat or promise being made from a person in authority and such confessional statements becomes irrelevant as they may not reflect the accused free will. On the other hand, a confessional statement made to a police officer cannot be proved against the accused, although it may be logically relevant, because it is legally inadmissible. The paper further makes an attempt to analyse the "doctrine of confirmation by subsequent facts" and to what extent it can be made admissible under the law of evidence with the other statements being recorded by the police under the Bharatiya Nagarik Suraksha Sanhita, 2023. The researcher through this paper attempts to find out the impact of and the effect of involuntary statements made by an accused. The paper is confined

¹ Assistant Professor of Law, Dharmashastra National Law University, Jabalpur (India). Email ID: gautamgupta@alumni.nls.ac.in

only to find out the admissibility and irrelevancy of confessions under the Bharatiya Sakshya Adhiniyam, 2023.

II. KEYWORDS

Confession, Admissibility, Irrelevancy, Self-Incrimination, Voluntariness.

III. INTRODUCTION

The Indian law of evidence does not define confession separately. It is generally treated as a species of admission because Section 15 of the Bharatiya Sakshya Adhiniyam, 2023 defines an admission as an oral, documentary, or electronic statement suggesting an inference as to any fact in issue or relevant fact. Therefore, the concept of confession must be understood through statutory provisions on admissions, subject to the special rules governing confessions in criminal proceedings. Confession is merely a piece of admission. The word 'confession' is nowhere defined under the Indian law of evidence. In general terms, a confession is a statement made by a person charged with a crime, suggesting an inference as to a fact in issue or a relevant fact." Such a statement must suggest that the accused is guilty of the crime.

In *Pakala Narayan Swami Case*², the Privy Council had declared that confessions is an admission of a guilt of a person in as many words or admission of such facts which together with some of other facts go on to constitute the offence.

A confession that is voluntary and free from pressure may be accepted in evidence. However, before a confession is used against an accused person, the Court must be satisfied that it was made voluntarily. If the circumstances of the case create doubt regarding the reliability or voluntariness of the confession, the Court may refuse to act upon it even if it is otherwise admissible under the law of evidence. Thus, for a confession to be relevant and capable of being relied upon, it must be free from external influence or interference.

The research problem addressed in this paper is whether a statement made by an accused, after the commission of an offence, to the police, a Magistrate, a private

² *Pakala Narayan Swami v. Emperor* AIR 1939 PC

person, or any other person amounts to a confession. The paper further examines the evidentiary value and admissibility of such a statement if it is made involuntarily, the extent to which it may be used against the accused, and whether discovery made on the basis of information supplied by the accused violates any constitutional mandate.

A. Objective of the Research

The aim of this research paper is to look into the relevancy and admissibility of confessions in the light of the fact that whether such confessions has been made voluntarily or involuntarily. And the objective of this research paper is to examine the following:

1. To understand which confessions are irrelevant.
2. To understand whether confessions made to police shall or shall not be proved against accused.
3. To examine whether a fact that has been found on the information of accused may be proved against him.
4. To examine the evidentiary value of Judicial and Extra-Judicial Confession.

B. Research HYPOTHESIS

1. Involuntariness of the confession is the main cause behind its irrelevancy and inadmissibility.
2. In this hypothesis there is a causal relationship between the involuntariness of confession and its relevancy. The former is independent variable and the latter is a dependent variable.
3. There is also a causal relationship between the involuntariness of confession and its admissibility. The former is independent variable and latter is a dependent variable.
4. The presumed relationship between the variables is such that it could be verified or nullified after the researcher has completed the research. The hypothesis is in conformity with logical consistency and hence, is capable of being tested in the present study.
5. The researcher will evaluate the various provisions of the Bharatiya Sakshya Adhiniyam, 2023 and the Bharatiya Nagarik Surkasha Sanhita, 2023 in his

research which will help the researcher either to negate or affirm the above-mentioned hypothesis.

C. Research Questions

The researcher prefers to give the research questions; he will try to find answers to these questions in order to test his hypothesis and find a solution of his research problem.

The questions are as following:

1. When the confessions will be irrelevant?

The researcher would delve whether the threat, inducement or promise was of such a nature that any reasonable person would believe that if he makes the confession, then he would be gaining some temporal advantage or benefit in the proceedings. The researcher also wanted to know by analysing the facts and circumstances that any person in authority who has either promised the accused to do, that if you confess or have encouraged or threatened the accused to make the confession. It would also be investigated into the matter by the researcher that it is not a general, promise, inducement that is pertaining to the particular charge against him that is in reference to the charge and he believes to the satisfaction of the court, that if he makes the confession, then he will have so and so material and temporal benefit in that particular case and on the basis, he makes the confession then the confession will be irrelevant and inadmissible.

The researcher would also investigate that the threat, influence or promise upon the mind of the accused has been totally removed or not and whether the court is satisfied or not.

2. Confession made to a police officer shall not be proved against accused?

The researcher would delve that if an accused has made a confession to a police officer, whether that confession may or may not be used against the accused. The researcher would also investigate that whether the confession has been made in police custody or if not in police custody, then accused simply make a confession to the police officer. The researcher would also investigate that whether the prohibition under the law of

evidence regarding confession by accused to a police officer or in police custody makes it irrelevant or simply that it cannot be used against the accused.

3. Confession of Co-Accused in Joint Trial

Section 24 of the Bharatiya Sakshya Adhiniyam, 2023 deals with the evidentiary value of a confession made by one accused against himself and other accused persons who are being tried jointly for the same offence. This provision corresponds to Section 30 of the Indian Evidence Act, 1872. It enables the Court to take into consideration such confession not only against the maker of the confession but also against the co-accused, provided that they are being tried jointly and the confession affects both the maker and the other accused persons.

However, the confession of a co-accused does not stand on the same footing as substantive evidence. In *Kashmira Singh v. State of Madhya Pradesh*, the Supreme Court clarified that such confession is not evidence in the ordinary sense, because it is not made on oath, is not given in the presence of the co-accused, and cannot be tested by cross-examination. The proper approach is that the Court must first examine the prosecution evidence independently; if that evidence is sufficient to sustain conviction, the confession of the co-accused may then be used only as an additional circumstance lending assurance to the conclusion already reached.

The corroboration principle is also consistent with *Sarwan Singh v. State of Punjab*, where the Supreme Court emphasised the need to examine whether a confession is voluntary, true, and supported by material corroboration. Therefore, a co-accused's confession under Section 24 of the BSA cannot by itself be treated as the foundation of conviction. It may be considered only in a limited and cautious manner, and only when other legally admissible evidence substantially connects the accused with the offence.

4. A fact that has been found on the information by the accused can be proved against him?

The researcher would delve that if the accused has made a statement as to discovery, then whether when there is a general provision and there is an exception to the general provision so that the exception has to be given a restricted interpretation or not under

23 of Bharatiya Sakshya Adhiniyam, 2023, so researcher will make an attempt to analyse that whether a broad interpretation has to be given or a restricted one.

The researcher would also investigate that at the stage of trial, when the prosecution gives evidence of a particular thing to have been discovered on the information of the accused that was given in police custody then should the court consider that information to be relevant in that particular case and how much of the information is admissible and can be proved.

D. Research Methodology

In this paper the researcher will be mainly using descriptive and analytical methodology of research which involves case study also. The Indian Evidence Act, 1872 was repealed³ and the Bharatiya Sakshya Adhiniyam, 2023 came into existence on July 1, 2024 is in existence so for the purpose of analysing the existing position. The researcher will be going through various books, articles, journals and web sources for the purpose of analysing various provisions in the Bharatiya Sakshya Adhiniyam, 2023.

IV. CONFESSIONS TO BE IRRELEVANT

Section 22 of the Bharatiya Sakshya Adhiniyam, 2023 declares that a confession becomes irrelevant in a criminal proceeding when it appears to the Court to have been caused by inducement, threat, coercion or promise, having reference to the charge against the accused and proceeding from a person in authority. This provision broadly corresponds to Section 24 of the Indian Evidence Act, 1872, but it is wider in one important respect: the BSA expressly adds the word 'coercion' as a statutory ground of irrelevancy.

Sec. 22⁴ declares that if the confession was made by an accused in the following circumstances, when it will become relevant:

1. The person making the confession was an accused:

³ Section 170 Bharatiya Sakshya Adhiniyam, 2023

⁴ Section 22, Bharatiya Sakshya Adhiniyam, 2023.

It is not necessary that the person should have formally been made an accused at that stage. Even if he was generally being interrogated at that time and later on, he was made a formal accused then Sec.22 will apply.

2. The confession was made by him under inducement, threat, coercion or promise in reference to the charge against him:

Inducement means persuading or luring the accused to make the confession. Promise refers to an assurance of reciprocal benefit in return for the confession. Threat refers to conduct that creates fear in the mind of the accused. Coercion, as newly and expressly included in Section 22 of the Bharatiya Sakshya Adhiniyam, 2023, should be understood as a broader form of compulsion that may operate through physical, psychological, custodial, or other pressure affecting the free will of the accused. It is essential that either of these was made in reference to the charge against him i.e. the authority who threatened, promised or induced should have done so in relation to something pertaining to the charge or allegation, if no formal charge against him. For instance, if he will be threatened that he will be given a higher punishment or that it will be ensured that he will be convicted or that he will not be released on bail or that third degree torture will be done upon him or that he will be kept in solitary confinement, etc.

These threats pertain to the allegation or the proceeding against him. Similarly, the promise that he will be released on bail, he will be discharged, he will be granted pardon, etc will also fall under Sec.22.⁵ However, if the threat is that he will invite the curse of God or that he will be out-caste from the society or that he will be beaten up after he has been released or that some financial benefits will be given to him etc are not related to the charge or the proceedings, and hence the confession made upon such

⁵ Section 22 Bharatiya Sakshya Adhiniyam, 2023

Section 22 of the Bharatiya Sakshya Adhiniyam, 2023 provides that a confession made by an accused person is irrelevant in a criminal proceeding if it appears to the Court that the confession was caused by inducement, threat, coercion or promise, having reference to the charge against the accused and proceeding from a person in authority. The provision further requires that such inducement, threat, coercion or promise must be sufficient, in the opinion of the Court, to give the accused reasonable grounds to suppose that, by making the confession, he would gain an advantage or avoid an evil of a temporal nature in reference to the proceedings against him.

promises or threats or inducements made upon such promises or threats or inducements shall not be hit by Sec.22.⁶

It has also to be proved that the accused made the confession because he believed that by making the confession he will gain advantage of a temporal nature or avoid an evil of temporal nature in reference to the proceeding against him. Here the word 'Temporal' means something which is material or tangible and not merely spiritual. For e.g. the easing out of the conscience, some religious benefits pertaining to God etc will not fall under the word 'temporal'. Moreover, even it is temporal, it should be in reference to the proceedings i.e. to some proprietary benefits or some social benefits, not related to the proceedings, will not fall under Sec.22.⁷

3. The threats, inducement, promise should have come from a person in authority.

The words "person in authority" relates to the person who has some control upon the proceedings. The investigating officer, some superior police officer, any individual member of the staff in the police station, the Judicial Magistrate, the officers of the court, the peon, the village Sarpanch etc will be believed to have some influence upon the proceedings and hence the threat etc. from these persons will be hit by Sec.22.⁸

The word "person in authority" has to be given a wide interpretation i.e. it should not be limited only to the investigating officer.⁹

First proviso is an extension to Sec.22 what is required under Sec.24 is that the confession should have been made under the influence of the threat, promise or inducement. Thus, if the court is satisfied that the effect of the threat, promise or inducement had been totally removed by the time the confession was made, then the confession will be relevant. For what purpose the court will have to examine the circumstances in which the confession was made and also the time gap between the

⁶ *Id.*

⁷ Tarun Sharma, "Section 22 Bharatiya Sakshya Adhiniyam (BSA) Explained: Confession Caused by Inducement, Threat, or Promise", <https://www.lawsho.com/section-22-bharatiya-sakshya-adhiniyam-bsa-explained-confession-caused-by-inducement-threat-or-promise/> last accessed on 27.08.2026

⁸ *Id.*

⁹ Nannhu v State of M.P AIR 1960 MP 132 ; 1959 SCC OnLine MP 21

threats, etc and the confession. It is also for this reason that when the accused is brought before the magistrate to make the confession and the finds that there may be some element of threat, inducement or promise, then he after having warned the accused that he is not bound to make the confession and that it can be used against him in evidence, the magistrate will allow some time to the accused to sit separately and ponder and in proper cases it can even send the accused for judicial custody of a day or two. Here the purpose of doing is to ensure that that the effect of the threat etc is removed before the confession is made so as to provide relevancy to the said confession.

V. CONFESSION MADE TO A POLICE OFFICER

Both Sec.23(1)¹⁰ and Sec.23(2)¹¹ provide for the admissibility of certain confession in the circumstances provided therein even though the confession otherwise may be relevant. Under Section 23(1), no confession made to a police officer can be proved against a person accused of any offence. The prohibition operates because of the law's concern that a confession made to police may be influenced by fear, pressure, or custodial authority. It is not essential that the accused should have been in custody at the time when the confession was made. It simply has to be proved that the confession was made to a police officer. A police officer for Sec.23 (1) has to be an officer who has the power of investigation, therefore a Custom Officer¹² or under some special statutes will not be considered to be an officer for that purpose. Though an Excise officer, having the powers of investigation will be considered to be a police officer for that purpose.¹³

The policy behind Sec. 23(1) as well as Sec.23(2) is the implicit fear element involved in the fact that it was made to a police officer or while in police custody. For Sec.23(1) to apply it has to be proved that the confession was made directly to a police officer and therefore if the accused writes a letter of confession through post it will not be hit by Sec.23(1). If the police officer obtains confession under disguise, then it is doubted

¹⁰ Section 23(1), Bharatiya Sakshya Adhiniyam, 2023

¹¹ Section 23(2), Bharatiya Sakshya Adhiniyam, 2023.

¹² Radhika Agarwal v. Union of India and Ors., W.P.(Crl.) No. 336/2018

¹³ Rajaram Jaiswal v. State of Bihar AIR 1964 SC 828

that he may have caused the fear even though under disguise and hence Sec.23(1) would apply.

Section 23(2) bars proof of a confession made by any person while in the custody of a police officer, unless such confession is made in the immediate presence of a Magistrate. Thus, even where the confession is not directly made to a police officer, the statutory bar applies if the accused was in police custody at the time of making the confession. Police Custody has to be distinguished from Judicial Custody. Judicial Custody is under the jail on the orders of the magistrate or the court whereas Police Custody is with the police officer, in his charge, in the police lock up or elsewhere but not in jail custody. It can be during the initial 24 hours period after the arrest or when police remand is granted to the police.

Here it is not essential that there should be a direct custody of the police officer only, rather it can be a case where the police officer has ordered someone else (a private individual) to conduct the arrest or it can be a case where the accused has been taken to the hospital for medical examination or treatment and the confession is made to the doctor while the police officer is standing outside. In these cases, it can be said that the accused was in constructive police custody.

Under Sec.23(2), however if the confession was made to Judicial Magistrate while the accused was in police custody, then the prohibition will not apply. As a rule of prudence, it is required that at the time of making of the confession the police officer shall not be present in the same room. Similarly, under Sec.23(1) there can be case where though the confession is made to a private individual, the police officer was immediately present in such cases, it has to be examined as to how close they said police officer was present and also whether the fear element was caused. If the police officer was sufficiently near the accused as to create influence that the confession was actually made to the police officer, then Sec. 23(1) will be applicable even though on the face of it, the confession was made to a third person.

VI. INFORMATION BY AN ACCUSED IN POLICE CUSTODY AMOUNTS TO CONFESSION OR NOT

Proviso to section 23¹⁴ is in the form of a proviso to Section 22 of the Bharatiya Sakshya Adhiniyam, 2023 therefore it has to be given a restricted interpretation. For instance, Sec.23(2) is a broadly a prohibitory section under which the confessional statement in totality will be inadmissible. Proviso to section 23 creates an exception upon the above declaration and hence only as much of the statement of Sec.23(2) will be allowed to be proved as is expressly provided for in Proviso to section 23.

The concept of Proviso to section 23 is based upon the “Theory of Confirmation by Subsequent Finding of Fact”. It means the knowledge of the accused regarding the actual place of finding of the object is confirmed by the fact that the object was actually discovered from that place only.¹⁵

The following facts are relevant under Proviso to section 23:

1. The mental knowledge of the accused regarding the place of hiding of the object.
2. The actual finding of the object from the same place.
3. The place where the object was actually found.

The duty of the prosecution is to depose before the court and to prove that the object was actually found from the same place which the accused had informed about and in particular that the object was discovered on the information of the accused only.

For that purpose, the following points are important:

1. The procedure of making the discovery should be such that the court is easily able to comprehend that the object was discovered on that information only.
2. It should be discovered from a place of hiding:

It is essential to prove that the object was discovered from a place of hiding i.e. it has been discovered from the same place which has been pin-pointed by the accused, but there it was lying in the open rather it was under some kind of hiding so that so that

¹⁴ Proviso to Section 23, Bharatiya Sakshya Adhiniyam, 2023.

¹⁵ Justice V Ramkumar, Section 27 Recovery- Some Myths And Misconceptions, 9 Sept 2018, <https://www.livelaw.in/section-27-recovery-some-myths-and-misconceptions>, last accessed on 26.08.2026

it was not open to public view. The reason is that if it was kept open to public view then any third person may have known about the object and there may be a possibility that the police got the information about the object through that third person and therefore it cannot be claimed that the object was discovered only on the basis of the information received from the accused.

For instance, if a person has murdered someone and has left the murder weapon in a park anyone can see that and may inform the police. The police may falsely make the accused to make the confession and make him go to the place and falsely make him discover the object. That is where the knowledge of the accused that he knows exactly where that thing is gets defeated, therefore it is essential that it is found from the place of hiding and no third person knew about the object.

VII. JOINT DISCLOSURE

In the cases of co-accused, the discovery statement can be used against only that accused that made the disclosure first in point of time as by the time the second accused made the disclosure, the where about of the fact was already known. However, it has been held in the Parliament Attack Case¹⁶ that if there is an ideal situation wherein it can be proved that the two or more accused almost simultaneously and separately made the disclosure statement and it can be proved that the discovery was done upon the pin-pointing of each of them, then in such cases of joint disclosure the discovery statement can be used against all of them.

A. How much of the statement will be admissible

The confessional or the admissional statement would be broad statement out of which the disclosure is only a part and as per Proviso to section 23 only as much of the information will be admissible as distinctly relates to the discovery of the object, and therefore only that sentence which reveals where the object is to be found, will be admissible, not even the statement that the accused had hidden the object there. Proviso to section 23 is a proviso and hence it has to be given a restricted interpretation. The word “distinctly” means directly and expressly in that context.

¹⁶ *State v. Mofd. Afzal* 2003(3) JCC1669

Any part of the statement which is not distinctly related to the discovery cannot be allowed under Proviso to section 23. it will be allowed only when it is allowed under some other section. E.g. if the statement is relevant under Sec.19.¹⁷

Proviso to section 23

Essentially Proviso to section 23 follows Sec.23(2) and hence it is directly a proviso to Sec.23(2) i.e. as per the declaration of the entire confessional statement will be inadmissible but to the extent Proviso to section 23 permits, that part which falls under Proviso to section 23 will still be inadmissible.

*Pulukuri Kottaya v. King Emperor*¹⁸ It was laid down that in its essential spirit Sec.26 and Sec.25 have the same spirit and in *Mohd. Inayatullah v. State of Maharashtra*¹⁹ it has been held that Sec.27 is an exception to Sec.25 and Sec.26.²⁰

It has been held in *Aghnoo Nagesia v. State of Bihar*²¹ as well as *State of UP v. Deoman Upadhyay*²² that Sec 27 is an exception to Sec 24, Sec 25 and Sec 26.²³ Thus even if the confession was recorded and obtained under Sec 24 and therefore it would not have been relevant, that portion of the confession that falls under Sec 27 will be admissible. In *State of Bombay v. Kathu Kalu Oghad*²⁴ it was held that if the confession was made under threat, then it falls within that prohibition of Art. 20(3)²⁵ and hence it should not be admissible.

In *Aghnoo Nagesia*²⁶ case, it has been held that even if at that the time of logging of the FIR the accused was not in custody, he would be deemed to have been in constructive custody, if he is immediately thereafter arrested. However, the accused may not be arrested in a continuity of the transaction, he may be arrested later on after having lodged the FIR, in such a case the theory of Constructive Custody will not apply.

¹⁷ Sec.19, Bharatiya Sakshya Adhiniyam, 2023

¹⁸ 1947 Privy Council

¹⁹ AIR 1976 SC 483

²⁰ Sections 24, 25, 26 and 27 of Indian Evidence Act, 1872 corresponds to sections 22, 23(1), 23(2) and Proviso to 23 of Bharatiya Sakshya Addiniyam, 2023

²¹ AIR 1966 SC 119

²² 1960 AIR 1125

²³ Sections 24, 25, 26 and 27 of Indian Evidence Act, 1872 corresponds to sections 22, 23(1), 23(2) and Proviso to 23 of Bharatiya Sakshya Addiniyam, 2023

²⁴ *State of Bombay v. Kathi Kalu Oghad*, AIR 1961 SC 1808.

²⁵ Article 20(3), Constitution of India, 1950.

²⁶ AIR 1966 SC 119

In *Deoman Upadhyay v. State of UP*²⁷, the Court had simply declared that the Court is only concerned with the fact as to whether the inclusion of the person in police custody and not the person outside the police custody, in Sec. 27, is constitutional or not. The Court held that these two are two distinct classes and the present law as such is not unconstitutional. It would not be unconstitutional even if the person outside the police custody is included in Sec. 27. It is a matter of legislative policy.²⁸

The statement under Sec. Proviso to section 23 may be either a confessional or a non-confessional statement. There can be a case wherein the accused, on suspicion, has been arrested and has been made to make a statement while in custody, such statement will not fall under Sections 22, 23(1) and 23(2) if it was not a confessional statement. Nevertheless, the statement has been made to a police officer in course of investigation and therefore it will be hit by Sec. 181 Bharatiya Nagarik Suraksha Sanhita, 2023.²⁹

As per Sec. 181, the said statement cannot be used for any evidentiary purpose excepting for the purpose of contradicting the person who made the statement if he appears as a prosecution witness. However, since the person making the statement is an accused himself, he cannot appear as a prosecution witness and therefore his statement will be totally excluded under Sec. 181 even though it is not a confessional statement made to the police in custody. However, Sec.181 of BNSS acts as a saving clause and expressly saves the discovery statement and dying declaration from the application of Sec. 181 and hence to the extent of the information falling under Proviso to section 23 that part of the statement will be admissible.³⁰

B. Judicial and Extra-Judicial Confessions and their Evidentiary Value

A judicial confession is made before a Judicial Magistrate and is formally recorded in accordance with Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Where the confession is recorded in accordance with law and the document purports to be

²⁷ 1960 AIR 1125

²⁸ Section 27 of Indian Evidence Act, 1872 correspond to Proviso to Section 23

²⁹ Section 181, Bharatiya Nagarik Suraksha Sanhita, 2023

³⁰ Section 181 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponds to Section 162 of the Code of Criminal Procedure, 1973. Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponds to Section 161 of the Code of Criminal Procedure, 1973

signed by the competent Magistrate, Section 79 of the Bharatiya Sakshya Adhiniyam, 2023 permits the Court to presume that the document is genuine, that the recorded circumstances are true, and that the confession was duly taken. Extra-Judicial confession, on the other hand, is made either orally or in any other form to any other person apart from the Judicial Magistrate. It can be a private individual or an Executive Magistrate or a police officer, however if such confession is made to a police officer or while in police custody then the confession would be inadmissible.

Any confession made in an extra-judicial form, even if in writing, would not fall within the ambit of Sec. 79 of the BSA, 2023 and therefore there will not be any presumption of the evidence being given rather it has to be proved. But once the extra-judicial confession has been properly proved then there will not be any diminishing of the evidentiary value as compared to the judicial confession merely because it is an extra-judicial confession. It has been held in *State of M.P. v. Paltan Mallah*³¹ that even an extra-judicial confession is a good piece of evidence though neither extra-judicial nor judicial confession can be used as a sole basis of conviction and corroboration by other evidences is required.

VIII. SUGGESTIONS AND RECOMMENDATIONS

The law relating to confessions should be supported by clearer procedural safeguards so that the voluntariness of a confession is not defeated by inducement, threat, coercion or promise from a person in authority. Although Section 22 of the Bharatiya Sakshya Adhiniyam, 2023 renders such confessions irrelevant where the statutory conditions are satisfied, further clarity may be introduced through detailed standing operating procedures governing the recording of confessional statements and the production of the accused before a Magistrate. Such safeguards would reduce the possibility of undue influence and strengthen the reliability of confession evidence.

It is also suggested that clearer procedural guidelines should be framed for discoveries made pursuant to information supplied by an accused in police custody. The proviso to Section 23 of the Bharatiya Sakshya Adhiniyam, 2023 permits proof only of that part

³¹ *State of M.P. v. Paltan Mallah* AIR 2005 SC 733

of the information which distinctly relates to the fact discovered. Therefore, police officers should be required to carefully document the exact words of the accused, the place of recovery, the presence of independent witnesses, and whether the object was recovered from a concealed place or from an area already accessible to the public.

A clarificatory amendment or official procedural guidance may also be considered to distinguish between objects discovered as a direct consequence of information supplied by the accused and objects recovered by the police through their own independent search and seizure. This would prevent overextension of the discovery rule and would ensure that the exception contained in the proviso to Section 23 remains confined to its proper evidentiary purpose. These reforms would make the application of Sections 22 and 23 more certain, transparent, and consistent with the constitutional protection against compelled self-incrimination.

IX. CONCLUSION

The law of confessions under the Bharatiya Sakshya Adhiniyam, 2023 seeks to balance two important interests: the evidentiary value of a voluntary confession and the protection of the accused from compelled or unreliable self-incrimination. A confession, when voluntarily and truthfully made, may constitute a significant piece of evidence because it proceeds from the accused's own acknowledgment of guilt. However, its admissibility and evidentiary weight depend upon the satisfaction of strict legal requirements.

The study demonstrates that involuntariness remains the central ground for excluding a confession. Section 22 makes a confession irrelevant where it appears to the Court to have been caused by inducement, threat, coercion or promise having reference to the charge and proceeding from a person in authority. Similarly, Section 23 excludes confessions made to police officers and confessions made while in police custody, except where the confession is made in the immediate presence of a Magistrate or where the limited discovery proviso applies. These provisions show that the law treats custodial and police-influenced confessions with caution because of the possibility of pressure, fear or manipulation.

At the same time, the proviso to Section 23 recognises the doctrine of confirmation by subsequent facts by allowing proof of that limited portion of information which distinctly relates to the fact discovered. Judicial and extra-judicial confessions may both carry evidentiary value, but the Court must examine their voluntariness, truthfulness and corroboration with care. Thus, the hypothesis of the research stands substantially affirmed: the involuntary character of a confession is the principal reason for its irrelevancy or inadmissibility, while a voluntary and reliable confession may be acted upon subject to statutory safeguards and judicial prudence.

X. REFERENCES

A. Primary Sources

1. Statutes

- The Indian Evidence Act, 1872
- Bharatiya Sakshya Adhiniyam, 2023
- The Code of Criminal Procedure, 1973
- The Bharatiya Nagarik Suraksha Sanhita, 2023

2. Case Laws

- Aghnoo Nagesia v. State of Bihar AIR 1966 SC 119
- Makhan Singh v. State of Punjab AIR 1988 SC 1705.
- Manoharan v. State, (2020) 5 SCC 782.
- Mohd. Inayatullah v. State of Maharashtra AIR 1976 SC 483.
- Nishi Kant Jha v. State of Bihar 1959 SCR 1033.
- Pakala Narayan Swami v. Emperor AIR 1939 PC.
- Palvinder Kaur v. State of Punjab AIR 1953 SC 354.
- Prabhu v. State of U.P. AIR 1963 SC 1113.
- Queen Empress v. Babu Lal (1884) ILR 6 ALL 509.
- Radhika Agarwal v. Union of India and Ors., W.P.(Crl.) No. 336/2018
- Raja v. State of T.N., (2020) 5 SCC 118.
- Rameshbhai Chandubhai Rathod v. State of Gujarat, (2009) 5 SCC 740
- Sarwan Singh v. State of Punjab, AIR 1957 SC 637.”
- Satbir Singh v. State of Punjab (1977) 2 SCC 263.

- Sita Ram v. State AIR 1966 SC 1906.
- State of A.P. v. Gangula Satya Murthy (1977) 1 SCC 272.
- State of Haryana v. Rajinder Singh 1996 CrLJ 1875.
- State of Punjab v. Barkat Ram, AIR 1962 SC 276.
- T.N. v. Kutty AIR 2001 SC 2778.
- Kashmira Singh v. State of Madhya Pradesh, AIR 1952 SC 159.

B. Secondary

1. Books

- Avtar Singh, *Principles of the Law of Evidence*, Central Law Publications, Allahabad.
- Batuklal, *The Law of Evidence*, Central Law Agency, Allahabad.
- Ratanlal and Dhirajlal, *The Law of Evidence*, Lexis Nexis Butterworth Wadhwa, Nagpur.
- Vepa P.Sarathi, *Law of Evidence*, Eastern Book Company, Lucknow,
- Monir, *The Law of Evidence*, Universal Law Publication Agency.