

## **Admissions [17 to 23 & 31.]& Confessions [S. 24 to 30].**

- In Evidence Act, the concept 'admission' has been **defined in S. 17.**
- **Ss. 18-20** specify the person whose admissions are made **relevant.**
- **Section 21** provides the **exceptions** in which admission can be proved by or on behalf of the person making it.
- **Section 22** renders oral admission as to contents of a document **irrelevant.**
- **Section 23** states that no evidence of admission can be permitted in civil suits if it is made upon an understanding that it shall not be given in evidence.
- **Section 31** states that admissions are not conclusive proof unless they operate as estoppel.

### **Meaning (or definition) of admission:-**

**Black's Law Dictionary** defines- 'admission' as a voluntary acknowledgement made by a party of the existence of certain facts which are inconsistent with his claim in an action.

**According to Stephen**, "An admission is a statement, oral or written, suggesting an inference as to any fact in issue or relevance or deemed to be relevant to any such fact, made by or on behalf of any party to any proceeding."

An admission is a statement of fact which waives or dispenses with the production of evidence by conceding that the fact asserted by the opponent is true.

Admissions are admitted, because the conduct of a party to a proceeding in respect to the matter in dispute, whether by act, speech or writing, which is clearly inconsistent with the truth of his contention, is a fact relevant to the issue.

The word 'admission' has a technical meaning in law and it has been defined in S. 17 of the Evidence Act.

### **S. 17. Admission defined---**

***An admission is a statement, [oral or documentary, or contained in electronic form]<sup>1</sup> which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.***

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An 'admission' is a statement of fact which waives or dispense with the production of evidence by conceding that the fact asserted by the opponent is true.

Admissions are admitted because the conduct of a party to a proceeding, in respect to the matter in dispute, whether by acts, speech, or writing, which is clearly inconsistent with the truth of its contention, is a fact relevant to the issue.

Admissions are very weak kind of evidence and the Court may reject them if it is satisfied from other circumstances that they are untrue.<sup>2</sup>

Admission of a party in the proceedings either in the pleadings or oral is the best evidence and the same does not need any further corroboration.<sup>3</sup>

The Supreme Court has observed:

Admissions as defined in sections 17 and 20 and fulfilling the requirements of S. 21 are substantive evidence, *proprio vigore (by its own strength)*. An admission is the best evidence against the party making it and, though not conclusive, shifts the onus to the maker on the principle that what a party himself admits to be true may be reasonably presumed to be true so that until the presumption is rebutted the fact admitted must be taken to be true. An assessee cannot resile from its admission made in tax return even at appellate stage.<sup>4</sup>

There is this observation in PHIPSON ON EVIDENCE<sup>5</sup> "Subject to certain exceptions, the general rule, then both in civil and criminal cases, is that any relevant statement made by a party is evidence against himself.

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<sup>1</sup>Subs. By the Information Technology Act (Act 21 of 2000) S. 92 and Second Sch., w.e.f. 17-10-2000, for the words "oral or documentary".

<sup>2</sup>Latafat Husain vs. Lala Onkar Mal, (1934) 10 Luck 423; in a claim against railway for loss of goods in transit, the railway receipt contained the remark: 'said to contain' held, this was not admission on the part of the railway as to what were the contents of the consignment. Other records would have to be examined to see-what was the real state of the consignment at the starting point and terminus.

<sup>3</sup>Ahmedsaheb vs. Sayed Ismail, (2012) 8 SCC 516.

<sup>4</sup>Federal Bank Ltd. Vs. State, AIR 1974 SC 1121.

<sup>5</sup>231 (9<sup>th</sup> Edn., 1952).

**R. vs. Erdheim,<sup>6</sup>**

The weight of the declaration is, of course, a totally different matter; this may vary with the circumstances and will not doubt, be greater if against interest at the time, than the contrary”.

**In E.C.T. Farming Society case,<sup>7</sup>**

**BEG, J. of the SC. observed:**

“It is well settled that the effect of an admission depends upon the circumstances in which it was made.”

A statement to be used as an admission must be clear, specific and unambiguous and in the own words of the person making it and has to be proved to be so. It is not an inference drawn by anybody which should be taken as an admission. An admission to be worthy of being received in evidence, considered and relied upon, it should firstly be the clear-cut and accurate statement of that every person in his own works. It has to be proved to be the statement of the person who made it.<sup>8</sup>

An admission must be examine as a whole and not in parts.<sup>9</sup> “It is settled law that an admission of any party has to be read in its entirety and no statement out of context can constitute admission of any fact.”<sup>10</sup>

Statements in pleadings are admissions against the party making them. He cannot be heard to rely upon favourable parts an otherthrow the rest by oral evidence.<sup>11</sup>

**In Union of India vs. Moksh Builders etc.,<sup>12</sup>**

The SC. Cited a statement from its own earlier decision to the effect that an admission is substantive evidence of the fact admitted and when properly proved is relevant irrespective of the fact whether the maker approved in the witness-box

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<sup>6</sup>(1986) 2 QB 260.

<sup>7</sup> (1974) 2 SCC 319 at 321 : AIR 1974 SC 1121.

<sup>8</sup>H. G. Ramachandra Rao vs. Master Srikantha, AIR 1999 Kant 347.

<sup>9</sup> Mohammad Koya vs. Muthuboya, (1979) 1 SCR 664: AIR 1979 SC 154.

<sup>10</sup>Dharamwati Bai vs. Shiv Singh, AIR 1991 MP 18.

Accordingly a statement of the claimant that her personal estate arising before 1956 Hindu Succession Act was in the management of the Court of Wards could not be taken as an admission that the property in question was not her estate.

<sup>11</sup> Sunil Chandra vs. Hemendra, AIR 1991 Pat 203.

<sup>12</sup>AIR 1977 SC 408: 1977 Cr. LJ 376.

or not and when he appears, whether he was confronted with those statements or not in case he made a statement contrary to his admissions.

The Court cited a statement from WIGMORE ON EVIDENCE<sup>13</sup> to the effect that an admission need not be contrary to the maker's interest.

Thus it is not necessary before admitting the evidence of an admission that it should be brought to the notice of the party who made it.<sup>14</sup>

An admission in so far as facts are concerned would bind the maker of the admission but not in so far as it relates to a question of law.

It is immaterial to whom an admission is made. An admission made to a stranger is relevant.

Admissions are as much binding on the Crown as ordinary persons. In English law the term 'admission' is used in civil cases; whereas the term 'confession' is used in criminal cases as acknowledgment of guilt. This distinction is not maintained in the Evidence Act, and S. 17 to 22 are applicable to civil as well as criminal cases.

Statements by the accused are admissions under S. 17 & 18, and prima facie evidence against the maker, but not in his favour.

The word 'confession' has not been defined anywhere. A confession is an admission made at any time by a person charged with a crime, stating or suggesting the inference that he committed the crime.

Statement is a genus, admission is the species and confession is the sub-species.

A confession, therefore, is a statement made by an accused admitting his guilt. When a party accepts his statement made in earlier proceedings, it amounts to admission.

#### **Prior statement:-**

A prior statement in one's own interest may not be evidence, but a prior statement adverse to one's interest would be evidence.<sup>15</sup>

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<sup>13</sup> Vol. 4, p. 1048.

<sup>14</sup> Maimunna Bibi vs. Rasool Mian, AIR 1991 PAT 203.

<sup>15</sup> Satrucharla Vijaya Rama Raju vs. Nimkaka Jaya Raju, (2006) 1 SCC 211 : AIR 2006 SC 543.

### **Admissions in criminal proceedings:-**

Every admission made by a accused person is not, in the view of the law, a confession, nor can it be held that admissions mean only statements made by parties to civil proceedings, and do not include statements made by parties in criminal proceedings.

Every statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact made by an accused person is an admission under S. 17 and 18, and under S. 19 an admission may be proved as against the person who makes it unless, under some provision of the Evidence Act or other law, it is rendered inadmissible.

Under S. 24-26 statements made by accused persons are inadmissible, subject to the provisions of S. 27 to 29, when such statements are confessions.

A confession which is inadmissible may yet for other purposes be admissible as an admission under S. 18 against the person who makes it in civil matters.

Thus, admission of guilt by a person to a police officer, though not receivable in evidence in a criminal trial, may be proved in civil proceedings as an admission under this section and S. 18 and 21.

### **In SashidharaKurup vs. Union of India,<sup>16</sup>**

It was held that the admissibility of plea of guilt can be determined only if the plea is recorded in the words used by the accused. The accused simply said that he was guilty of the charge. This did not constitute an admission of guilt.

### **Admission in publication:-**

The court said that statement made in a book, though cannot be regarded as conclusive admissions. They can be taken as an additional circumstance alongwith the other circumstances for determining whether the conduct of the appellant amounted to waiver and/or abandonment of the right in respect of the articles I question.<sup>17</sup>

### **Oral or documentary—Judicial or extra-judicial:-**

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<sup>16</sup>1994 Cr LJ 375 (Gau).

<sup>17</sup> Karan Singh (Dr.) vs. State of J & K, (2004) 5 SCC 698: AIR 2004 SC 2480.

Admissions may be oral or contained in documents, e.g., letters, depositions, affidavits, complaints, written statements, deeds, receipts, horoscopes. Admissions in pleadings are judicial admissions. They can be made the foundation of rights.

**In K.K. Chari vs. R.M. Sheshadri,<sup>18</sup>**

**DUA J said:**

“If he tenant in fact admits that the landlord is entitled to possession on one or the other of the statutory grounds mentioned in the Act, it is open to the Court to act on the admission and make an order for possession in favour of the landlord without further enquiry.”

The material for the satisfaction of the Court “may take the shape either of evidence recorded or produced in the case, or it may partly or wholly be in shape of an express or implied admission made in the compromise agreement itself.”<sup>19</sup>

Explaining the weight of a judicial admission as compared with informal or causal admissions, SARKARIA J said:

“Admissions, if true and clear, are by far the best proof of the facts admitted. Admissions in pleadings or judicial admissions, admissible under S. 58, made by the parties or their agents at or before the hearing of the case, stand on a higher footing than evidentiary admissions. The former class of admissions is fully binding upon the party that makes them and constitutes a waiver of proof. They by themselves can be the foundation of the rights of the parties. On the other hand, evidentiary admissions which are receivable at the trial as evidence, is by themselves not conclusive. They can be shown to be wrong.

Post-dated cheque in satisfaction of debts amounts to acknowledgment of liability irrespective of the fact whether the cheque is honoured or not.<sup>20</sup>

Admissions may be implied from the acquiescence of a party. Admissions in the written statement filed in some other case have been held by the Supreme Court to be an important piece of evidence and, therefore, entitled to its due weight, though like all other admissions, it is neither conclusive nor irrebuttable.

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<sup>18</sup> (1973) 1 SCC 761 at p. 774 : AIR 1973 SC 1311.

<sup>19</sup> Nagindas Ramdas vs. Dalpatram, (1974) 1 SCC 242 at p. 252 : AIR 1974 SC 471.

<sup>20</sup> Rajpati pd. Vs. Kaushalya Kaur, AIR 1981 Pat 187.

The general rule is that admissions are admissible against the party making them and not against any other party. The exceptions to this rule are mentioned in S. 18 to 20.

A statement by an applicant for old age pension in her cross-examination that she was getting old age pension and that her form was filled by the *pardhan* of the village was held not to have the effect of an admission in respect of the contents of her application.<sup>21</sup>

### **Voluntary:-**

For an admission to have the effect of substantive evidence it must be voluntary. An examinee gave undertaking that if he did not file his employer's permission, the university right do anything it liked. That did not put him out of Court.

“It is well settled that admission made in ignorance of legal rights or under duress cannot bind the maker.”

The examinee submitted the undertaking under the constraint of not being permitted. The consequences of the University's failure to scrutinize his form and to find out the fraud, if any, cannot be visited upon the candidate.

Similarly, an admission made by a party in a previous criminal proceeding in order to get rid of the chances of conviction was held to be *in terrorem*<sup>22</sup> and, therefore, of very little significance.<sup>23</sup>

In a suit for eviction, vague allegations about the ownership of the premises by the tenant, could not be treated as his admission about the contract of tenancy with the landlord.<sup>24</sup>

### **Admissions as hearsay---**

Examining the nature of the evidence of an admission and distinguishing it from hearsay.

**PARKE B sad:**<sup>25</sup>

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<sup>21</sup>Twatku vs. Surti, AIR 1997 HP 76.

<sup>22</sup> In terrorem, Latin for “into/about fear”, is a legal threat, usually one given in hope of compelling someone to act without resorting to a lawsuit or criminal prosecution.

<sup>23</sup>Mohd.Vs. Mohd. AIR 1976 SC 1569 : (1976) 4 SCC 780.

<sup>24</sup>Anurag Misra vs. Ravindra Singh, AIR, 1994 All 174.

<sup>25</sup>Shatleric vs. Pooley, (1840) 151 ER 579.

“The rule as to the production of the best evidence is not at all infringed. It does not apply to the present case (oral admissions as to the contents of a document). That rule is founded on the supposition that a party is going to offer worse evidence than the nature of the case admits. But what is said by party to the suit is not open to that objection. We, therefore, think it is a sound rule that admissions made by a party to a suit may be received against him.”

There is no general agreement on admissions as hearsay.

**A learned commentator says:**

“Whether an admission is an exception to the hearsay rule depends upon one’s definition of hearsay. If we define hearsay as an extra-judicial statement offered as tending to prove the truth of the matter stated, an admission clearly falls within it. It must be conceded that the rule which makes admissions receivable is older than the hearsay rule and is a necessary concomitant of the accepted doctrine that evidence of any relevant conduct of a party is admissible against him.”<sup>26</sup>

**A passage in WIGMORE ON EVIDENCE<sup>27</sup>** has been adopted by the Allahabad High Court,<sup>28</sup> “The theory of the hearsay rule is that an extra-judicial assertion is excluded unless there has been a sufficient opportunity to test the grounds of assertion and the credit of the witness by cross-examination by the party against whom it is offered, e.g., if Jones had said out of court, “The party-opponent Smith is entitled to an opportunity to cross-examine Jones upon that assertion. But if it is Smith himself who said out of court, “borrowed this fifty dollars”, certainly Smith cannot complain of lack of opportunity to cross-examine himself before his assertion is admitted against him. Such a request would be absurd. Hence the objection of the hearsay rule falls away, because the very basis of the rule is lacking viz., the need and prudence of affording an opportunity for cross-examination.”

**Persons whose admissions are relevant---**

List of persons whose admissions are relevant is to be found in the provisions of sections 18 to 20. Admissions made by any other persons are not

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<sup>26</sup> MORGAN, BASIC PRINCIPLES OF EVIDENCE, 265 cited by EDWARDS, CASES ON EVIDENCE IN AUSTRALIA, 507 (1968).

<sup>27</sup> Vol. 4, S. 1048.

<sup>28</sup> Ayodhya Prasad Bhargava vs. Bhawani Shankar Bhargava, AIR 1957 All 15.

receivable in evidence. Thus, the statements of some officers admitting their guilt that lesser number of persons were shown on records of the factory so as to keep it out of the application of the Central Excise was held to be not an admission against the owner.

Failure to prove the defence does not amount to an admission, nor does it reverse or discharge the burden of proof of the plaintiff.

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***S.18. ---Admission by party to proceeding or his agent:-***

*Statements made by a party to the proceeding, or*

*By an agent to any such party,*

*Whom the Court regards,*

*Under the circumstances of the case,*

*As expressly or impliedly authorized by him to make them, are admissions.*

***By suitor in representative character---***

*Statements made by parties to suits, suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character.*

*Statements made by---*

1) ***By party interested in subject-matter***—Persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested,

*or*

2) ***By person from whom interest derived---***Persons from whom the parties to the suit have derived their interest in the subject-matter of the suit,

*Are admissions, if they are made during the continuance of the interest of the persons making the statements.*

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