



Adjudicatory Analysis Of The Evidentiary Weight And Judicial Admissibility Of Inculpatory And Exculpatory Confessions In India

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Abstract

Confessions play a pivotal role in criminal jurisprudence, serving as both an admission of guilt and a basis for exoneration. In India, the legal framework governing confessions is rooted in the Bharatiya Sakhya Adhiniyam, 2023 (previously the Indian Evidence Act, 1872) and the Bharatiya Nagarik Suraksha Sanhita, 2023. The unique nature of mixed confessions statements containing both inculpatory and exculpatory elements poses significant adjudicatory challenges. Courts must determine the evidentiary value of such confessions while ensuring adherence to principles of justice and fair trial.

This paper explores the judicial scrutiny of mixed confessions in India, analyzing landmark precedents and statutory provisions. It examines the admissibility and evidentiary weight of such confessions under Sections 22 to 24 of the Bharatiya Sakhya Adhiniyam. Special emphasis is placed on the principle that prosecution cannot selectively rely on inculpatory portions while disregarding exculpatory elements unless corroborated by independent evidence. Through a doctrinal approach, the paper critically evaluates key Supreme Court and High Court rulings, illustrating the evolving judicial trends on this issue.

Furthermore, the paper delves into the impact of custodial confessions, the role of judicial magistrates in recording statements under Section 183 of BNSS³, and the corroborative value of mixed confessions in securing convictions. Comparative insights from international jurisprudence are also provided to contextualize Indian legal standards.

The findings underscore the necessity for a balanced approach in evaluating mixed confessions, ensuring that neither prosecutorial bias nor judicial overreach undermines the accused's rights. The paper concludes with recommendations for legal reforms and judicial prudence to enhance the integrity of confessional evidence in India's criminal justice system.

KEYWORDS: confession, voluntarily, evidentiary value, mixed.

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³ Statements recorded under Sec. 183 BNSS may be confessions of an accused or statement of a witness or victim. The recording of confessions and statements can be done by any judicial Magistrate of the district where the FIR has been registered.

1. Introduction

Confessions are considered among the most crucial pieces of evidence in criminal trials. Confessions play a pivotal role in the Indian criminal justice system, often forming the backbone of prosecution cases. They can directly impact the outcome of a case by influencing judicial decision-making. However, when a confession comprises inculpatory (self-incriminating) and exculpatory (self-exonerating) statements, its legal significance becomes complex. The Bharatiya Sakshya Adhiniyam and judicial precedents have consistently shaped the contours of admissibility and evidentiary weight of such confessions.

However, when a confession is partly inculpatory (admitting guilt) and partly exculpatory (asserting innocence or reducing culpability), its evidentiary weight and judicial admissibility become complex legal issues. Bharatiya Sakshya Adhiniyam, and judicial precedents provide a framework for assessing such confessions, balancing the accused's rights against the need for effective law enforcement.

Under **Section 22 to 24 of the Bharatiya Sakshya Adhiniyam**, a confession must be voluntary and free from coercion to be admissible. Courts have consistently held that a partly inculpatory and partly exculpatory statement cannot be accepted selectively to the detriment of the accused. Instead, the judiciary must assess the confession in its entirety, ensuring fairness and justice. The Supreme Court of India has repeatedly ruled that confessions cannot be manipulated by the prosecution to highlight incriminating portions while disregarding exculpatory elements.

Moreover, the evidentiary weight of such confessions depends on their corroboration with independent evidence. Courts exercise caution in admitting confessions that contain self-serving declarations, ensuring they align with other material facts of the case. The **Burden of Proof**, under **Section 104 of Bharatiya Sakshya Adhiniyam⁴**, remains on the prosecution to establish the voluntary and truthful nature of the confession beyond a reasonable doubt.

This adjudicatory analysis aims to explore the principles governing the admissibility and evidentiary weight of confessions that contain both inculpatory and exculpatory elements. By examining judicial pronouncements, statutory provisions, and legal doctrines, this study will highlight the challenges and safeguards necessary to uphold the rights of the accused while ensuring justice is served and focusing on their admissibility, judicial interpretation, and probative value in light of established jurisprudence.

2. Significance of the Study

The adjudicatory analysis of partly inculpatory and partly exculpatory confessions holds immense significance in the Indian criminal justice system. Confessions often serve as crucial evidence in criminal trials, influencing judicial outcomes significantly. However, when a confession contains both inculpatory (self-incriminating) and exculpatory (self-exonerating) elements, determining its evidentiary weight and judicial admissibility becomes a nuanced legal challenge.

One of the key reasons for studying this subject is its **implication for fair trial principles**. The Indian Constitution, under **Article 20(3)⁵**, guarantees protection against self-incrimination, ensuring that confessions cannot be extracted through coercion⁶. Judicial interpretation of partly inculpatory and partly exculpatory confessions directly impacts the **rights of the accused** and the **prosecution's burden to prove**

⁴ Sec 104 Of BSA Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist, and when a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

⁵ Article 20(3) ensures that no person accused of an offense shall be compelled to be a witness against themselves.

⁶ Ayyub v stateof UP AIR 2002 SC 1192: 2002 para 18

guilt beyond a reasonable doubt⁷. This study provides insight into how courts should assess such confessions to ensure that they are not selectively used to the detriment of the accused.

Further, the study is significant in the context of **judicial precedents and evolving legal interpretations**. Courts have laid down conflicting views regarding the acceptability of confessions that are not wholly inculpatory. A systematic analysis of these rulings helps in understanding the **judicial trend and evolving standards** governing such confessions.

Additionally, from a **law enforcement perspective**, this study is crucial in delineating the boundaries within which investigating agencies must operate. Improper reliance on partly exculpatory confessions can lead to **wrongful convictions or miscarriages of justice**, highlighting the need for robust legal safeguards.

By critically examining statutory provisions, case laws, and judicial reasoning, this study contributes to the broader discourse on **evidentiary law, constitutional protections, and judicial fairness**. It aims to offer **recommendations for legal clarity and procedural reforms** to ensure that confessions are evaluated justly, preserving the integrity of the criminal justice system.

3. Objectives of the Study

1. To Examine the Legal Framework Governing Confessions
2. To Assess the Judicial Approach to Partly Inculpatory and Partly Exculpatory Confessions
3. To Analyze the Evidentiary Weight of Such Confessions
4. To Identify Challenges in Admitting Such Confessions as Evidence

4. Research Methodology

This study employs a **doctrinal research methodology**, which relies on secondary sources for data collection. These sources include published research, legal journals, and historical records from both past and present. Doctrinal research, also known as **theoretical or pure legal research**, focuses on analyzing legal issues, problems, or questions through a structured examination of legal texts, statutes, case laws, and scholarly opinions. It is a **theoretical study** that primarily utilizes secondary data to explore and interpret legal principles and doctrines.

The scope of doctrinal research is **narrow and specific**, as it does not require fieldwork or empirical data collection. Instead, it aims to provide a comprehensive understanding of the legal framework and judicial perspectives related to the topic under study.

5. Legal Framework Governing Mixed Confessions

Confessions serve as a powerful form of evidence in criminal cases; however, not all confessions hold the same legal weight. The law acknowledges that certain confessions may be made under coercion, threats, or deceit, necessitating strict safeguards to ensure that only voluntary and fair confessions are admitted in court. To uphold this principle, Sections 22 to 24 of the **BSA** govern the admissibility of confessions, replacing the earlier provisions under Sections 24 to 30 of the **Indian Evidence Act**.

⁷ The phrase "beyond a reasonable doubt" means that the evidence presented and the arguments put forward by the prosecution establish the defendant's guilt so clearly that they must be accepted as fact by any rational person. If the jury cannot say with certainty based on the evidence presented that the defendant is guilty, then there is reasonable doubt and they are obligated to return a non-guilty verdict. Cornell Law School Legal Information Institute. "Beyond a Reasonable Doubt" https://www.law.cornell.edu/wex/beyond_a_reasonable_doubt

5.1. Confessions Made Under Pressure

This section ensures that confessions obtained through fear, threats, or promises of reward are not admissible in court. If a confession is made under coercion, the court will disregard it as evidence. However, if the accused later confesses voluntarily, without any external pressure, the court may consider the second confession. Additionally, a confession does not become invalid merely because the person claims they were intoxicated, deceived, or unaware of their rights at the time of making the statement⁸. (*Previously covered under Sections 24, 28, and 29 of the Indian Evidence Act, 1872*).

5.2. Confessions to Police Officers

According to this section, any confession made directly to a police officer by an accused cannot be used against them in court. This safeguard exists to prevent the possibility of coerced confessions. However, if the confession is made in the presence of a Magistrate while the accused is still in police custody, it may be considered admissible⁹.

Exception:

If a confession leads to the discovery of new evidence or facts, that specific portion of the confession may be used in court. (*Previously covered under Sections 25-27 of the Indian Evidence Act, 1872*).

5.3. Confessions Involving Multiple Accused¹⁰

This section applies when multiple individuals are on trial for the same crime. If one accused confesses and implicates others who are also on trial, the court may use that confession as evidence against all co-accused. In cases where individuals are tried together, a confession by one can impact all those involved¹¹.

Exceptions to the Rule on Confessions:

1. **Voluntary Confession after Removal of Pressure¹²:** If a person confesses freely after the removal of threats or coercion, the confession may be considered.
2. **Confessions despite Circumstances¹³:** A confession remains valid even if the person was deceived, intoxicated, or not explicitly warned about the consequences.
3. **Discovery of New Facts¹⁴:** If a confession results in the discovery of new facts or evidence, that portion of the confession may be used in court.

Examples:

- A suspect confesses under threat from an authority figure. This confession is inadmissible. However, if the same person confesses again later, without any pressure, the second confession may be accepted by the court. (*Relevant to Section 22*)
- An accused in police custody confesses to the location of stolen goods. If the police recover those goods based on the confession, that specific portion of the confession may be admissible in court. (*Relevant to Section 23*)

⁸ Sec 22 of Bharatiya Sakshya Adhiniyam, 2023

⁹ Sec 23 of Bharatiya Sakshya Adhiniyam, 2023

¹⁰ Sec 24 of Bharatiya Sakshya Adhiniyam, 2023

¹¹ Sec 23 of Bharatiya Sakshya Adhiniyam, 2023

¹² Sec 22 of Bharatiya Sakshya Adhiniyam, 2023

¹³ Sec 22 proviso of Bharatiya Sakshya Adhiniyam, 2023

¹⁴ Sec 23 proviso of Bharatiya Sakshya Adhiniyam, 2023

- If two individuals, A and B, are on trial for the same crime, and A confesses, stating, "B and I committed the crime together," the confession may be used as evidence against both A and B. (Relevant to Section 24)

6. Burden of Proof in Confessions

Under English law, the **burden of proving** whether a confession is **voluntary or involuntary** rests on the **prosecution**. It is the prosecution's responsibility to demonstrate that the accused's statement was made **freely and voluntarily**, while the accused may attempt to **disprove its voluntariness** (as stated by Cave, J)¹⁵.

The **Supreme Court of India**, in **Hem Raj Devilal v. State of Ajmer**,¹⁶ reaffirmed the principle laid down in *Thomson's Case*, emphasizing that the mere **assertion by the accused** of being **threatened, tutored, or induced** cannot be accepted without **supporting evidence**. If there is **no material proof** suggesting coercion or undue influence, the accused's claim may be dismissed.

However, courts are duty-bound to **carefully examine** all **circumstances surrounding the confession**, especially **the duration of custody** and the **conditions under which the statement was recorded**. If the accused was held in a **lock-up with unrestricted police access**, it casts **serious doubt on the voluntary nature** of the confession.¹⁷

For a **confessional statement** to be **admissible** and used against the accused, it must be **proved beyond doubt** that it was made **voluntarily, without coercion, threat, or inducement**.

7. Comparison with Indian evidence Act 1872

Section 22 of the **Bharatiya Sakshya Adhiniyam, 2023** corresponds to **Sections 24, 28, and 29** of the **Indian Evidence Act, 1872**. While the **1872 Act** dispersed the rules regarding the irrelevance of confessions in criminal proceedings across multiple sections, the **2023 Adhiniyam** consolidates these provisions into a single section (**Section 22**) for greater clarity and efficiency.

The **2023 Adhiniyam** retains the core principles of **Sections 24, 28, and 29** of the **1872 Act** but introduces a more structured framework. Notably, it explicitly incorporates "**coercion**" alongside **inducement, threat, and promise**, ensuring that confessions obtained under coercion is treated as irrelevant, just like those obtained through inducement, threats, or promises. This addition strengthens legal safeguards for the accused, marking an evolution in protective measures while maintaining the fundamental legal principles.

Despite these changes, the **judicial interpretations and precedents** established under the **1872 Act** remain relevant. Courts will continue to apply past rulings in cases concerning **confessions obtained through inducement, threat, coercion, or promise** under **Section 22** of the **Bharatiya Sakshya Adhiniyam, 2023**, ensuring **continuity in legal interpretation and application**.

8. Exculpatory Statements Are Not Confessions

A **confession** is an admission made by a person acknowledging that they have committed a crime. However, statements that **denies guilt** and instead provides explanations that absolve the accused from liability **are not confessions** and thus do not fall under the rule of exclusion applicable to confessions. For instance, if an

¹⁵ R v Thomas, (1983) 2 QB 12 : 62 LJMC 93.

¹⁶ Hem Raj Devilal v. State of Ajmer 1954 SCR 1133: AIR 1954 SC 462 : 1954 Cr LJ 1313.

¹⁷ Benar Singh Tanti v State of Assam 1977, Cr LJ 296.

accused admits to causing a death but claims **self-defense**, it does not constitute a confession. Similarly, a statement asserting **an alibi** or denying **larceny** while admitting to possession and providing an explanation for it **does not amount to a confession**.¹⁸

Exculpatory evidence, which is favorable to the defendant in a criminal trial, can contribute to reasonable doubt regarding the accused's guilt. The defense's evidence should not be treated with greater skepticism than the prosecution's; instead, all evidence should be evaluated with equal consideration. This is crucial because even the slightest reasonable doubt about the defendant's guilt warrants an acquittal.¹⁹

9. Judicial Interpretation

In **Palvinder Kaur v. State of Punjab**,²⁰ the accused was charged with **murdering her husband** by administering **potassium cyanide**. In her statement, she admitted to keeping potassium cyanide, which she used for developing photographs, in an almirah near the deceased's medicine bottle. She further stated that her husband **mistakenly consumed the cyanide**, leading to his death. The **High Court** accepted the inculpatory part **that she kept the cyanide bottle** but rejected the exculpatory part **that it was taken by mistake**.

Justice **Mahajan, J.** observed that the Court had **wrongly accepted only the inculpatory part while disregarding the exculpatory part**, violating the established principle that a confession or admission **must be accepted or rejected as a whole**. A court cannot selectively **accept inculpatory statements while discarding exculpatory portions** unless there is independent evidence proving the incorrectness of the exculpatory part. This principle was also reaffirmed in **Om Prakash v. State of Uttar Pradesh**.²¹

Thus, **a statement made by an accused that includes exculpatory content**, which, if believed, would absolve them of liability, **does not constitute a confession**. However, the **entire statement** must be submitted in evidence, allowing the court to evaluate both the inculpatory and exculpatory portions, provided there is other supporting evidence to validate the inculpatory part.²²

In **Aghnoo Nagesia v. State of Bihar**,²³ the Supreme Court ruled that a **self-exculpatory statement** cannot be considered a confession if the exculpatory portion negates the alleged offense. The court emphasized that if any admission made by an accused is used against them, **the entire statement must be presented in evidence**. If a statement is **partly inculpatory and partly exculpatory**, the **prosecution cannot selectively rely on the inculpatory part while ignoring the exculpatory portion**.

Furthermore, the Supreme Court held that a confession **often comprises multiple aspects**, including details about **the crime, motive, preparation, provocation, weapon used, concealment, and subsequent conduct**. If a confession is **tainted**, the **taint applies to the entire statement**, and it is impermissible to **separate and admit certain portions while rejecting others**. Each part of a confession contains some **incriminating fact**, which, **either alone or with other evidence**, may suggest the accused's involvement in the crime. Therefore, if a **statement includes an admission of an offense**, every **other incriminating fact contained within it is also considered part of the confession**.

¹⁸ Wigmore (Sec 821) Gopal v Crown, 51 Cr LJ 786: AIR 1950 HP 18.

¹⁹ Henry L. Chambers, Jr. "Reasonable Certainty and Reasonable Doubt." Marquette Law Review, Vol. 81, Spring 1998, No. 3, Page 685.

²⁰ Palvinder Kaur v. State of Punjab AIR 1952 SC 354: 1953 SCR 94.

²¹ Om Prakash v. State of Uttar Pradesh AIR 1960 SC 409: 1960 Cr LJ 514.

²² Kustu Balsu v State , 1986 Cr LJ 662.

²³ Aghnoo Nagesia v. State of Bihar , 1966 1 SCC 134: AIR 1966 SC 119: 1966 Cr LJ 100.

The above cases establish a consistent legal position on mixed confessions:

1. A confession must be taken as whole courts cannot selectively accept inculpatory parts while rejecting exculpatory ones.
2. Judicial confessions recorded under Section 164 CrPC hold greater evidentiary weight, but must be voluntary and properly recorded.
3. The confession of a co-accused cannot be the sole basis for conviction unless independently corroborated.
4. Confessions must be voluntary, truthful, and consistent if tainted or obtained under coercion, courts cannot rely on them selectively.

These precedents emphasize the **fundamental principle of fairness in criminal law**, ensuring that an accused is not convicted based on selectively interpreted confessions but rather on fair, corroborated, and complete evidence.

10. Statements That Are Partly Inculpatory and Partly Exculpatory

When an accused makes a statement that is **both inculpatory and exculpatory**, the court must consider the entire statement in its proper context. If a confession regarding **murder** is made to the police while the accused is **under arrest**, it is **inadmissible** in evidence.²⁴ However, if the accused's statement consists of **two separate and independent facts**, the court **may accept one fact while rejecting another**, provided the prosecution can **prove the incorrectness of the exculpatory part beyond doubt**.

For example, in **Vijendrajit Ayodhya Prasad Goel v. State of Bombay**,²⁵ the accused was charged under Section 66(b) read with Section 81 of the **Bombay Prohibition Act** for possessing rectified spirit in his godown without a permit. His statement contained both inculpatory and exculpatory elements, allowing the court to assess each fact separately based on supporting prosecution evidence.

11. Evidentiary Challenges and Judicial Interpretation in Mixed Confessions

A **mixed confession** is one that contains both **inclusory (guilt-admitting)** and **exclusory (guilt-denying or justifying)** statements. Such confessions create significant **evidentiary challenges** as courts must determine how to interpret and weigh both aspects fairly.

11.1. Evidentiary Challenges in Mixed Confessions

- **Selective Admission of Statements:**

Courts often face the dilemma of whether they can rely **only on the inculpatory portion** while disregarding the exculpatory part. However, as established in **Palvinder Kaur v. State of Punjab (1952 AIR 354)**,²⁶ a confession must be **accepted or rejected as a whole** unless independent evidence supports the inculpatory part.

²⁴ Yash Pal v state of UP , 1988 ALJ 85 (DB)

²⁵ Vijendrajit Ayodhya Prasad Goel v. State of Bombay 1953 SLJ 328 : AIR 1953 SC 247 : 1953 Cr LJ 1097.

²⁶ Palvinder Kaur v. State of Punjab AIR 1952 SC 354: 1953 SCR 94.

- **Lack of Corroboration:**

In **Nishi Kant Jha v. State of Bihar (1969 AIR 422)**,²⁷ the court held that if the prosecution seeks to use only the **inculpatory portion**, it must be **independently corroborated**. If no such corroboration exists, the confession **cannot form the sole basis of conviction**.

- **Confessions Recorded Under Duress or Coercion:**

Judicial confessions recorded under **Section 183 of BNSS**²⁸ are given **greater evidentiary value**, as seen in **State of UP v. Deoman Upadhyaya (1960 AIR 1125)**.²⁹ However, courts must ensure the statement was made **voluntarily and without coercion**, failing which it loses its admissibility.

11.2. Judicial Interpretation of Mixed Confessions

- Courts **cannot reject the exculpatory part outright** unless it is proven to be false through **strong independent evidence**.
- If the **confession is inconsistent, retracted, or appears tainted**, it loses **evidentiary value** (**Shankaria v. State of Rajasthan (AIR 1978 SC 1248)**)³⁰.
- In **Kashmira Singh v. State of MP (AIR 1952 SC 159)**,³¹ the Supreme Court ruled that the **confession of a co-accused must be corroborated** and cannot be the **sole basis for conviction**.

Mixed confessions pose **complex evidentiary challenges**, requiring **careful judicial scrutiny**. Courts must ensure that **only voluntary, consistent, and corroborated confessions** are relied upon while maintaining the **principle of fairness in criminal trials**.

11.3. Evidentiary Challenges and Judicial Interpretation

- **Voluntariness vs. Coercion:** Courts must ensure that confessions are not extracted through torture or inducement.
- **Corroboration Requirement:** The inculpatory portion of a mixed confession must be corroborated by independent evidence.
- **Doctrine of Severability:** Courts must decide whether a confession can be partially accepted without violating the principles of justice.
- **Selective Reliance by Prosecution:** Judicial precedents emphasize that prosecution cannot cherry-pick inculpatory statements while discarding exculpatory elements.

²⁷ Nishi Kant Jha v. State of Bihar (1969 AIR 422)

²⁸ Statements recorded under Sec. 183 BNSS may be confessions of an accused or statement of a witness or victim. ii. The recording of confessions and statements can be done by any judicial Magistrate of the district where the FIR has been registered.

²⁹ State of UP v. Deoman Upadhyaya (1960 AIR 1125).

³⁰ (Shankaria v. State of Rajasthan (AIR 1978 SC 1248)).

³¹ Kashmira Singh v. State of MP (AIR 1952 SC 159).

12. Conclusion and Recommendations

Mixed confessions present a significant evidentiary challenge in criminal trials. Courts must adopt a cautious approach to ensure that justice is not compromised. Key recommendations include:

- Strengthening Magistrate Oversight:** Judicial officers must meticulously verify the voluntariness of confessions recorded under Section 183 of BNSS.
- Legislative Clarity on Mixed Confessions:** Amendments to Bharatiya Sakshya Adhiniyam should explicitly address the treatment of mixed confessions.
- Training Law Enforcement on Ethical Interrogation Methods:** Preventing coerced confessions will enhance the reliability of confession-based evidence.
- Judicial Consistency:** A uniform approach across High Courts and the Supreme Court will promote consistency in adjudicating mixed confessions.

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