

LAW CAPSULE

For Law Competitive Exams



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EXCULPATORY AND INCULPATORY STATEMENTS

Mr Justice Stehen in his *Digest of Law of Evidence* states that confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime. It may be noted that Confession is an "efficacious proof of guilt" and is an important piece of evidence.

A question may arise whether a statement containing self-exculpatory matter can amount to a confession if the exculpatory statement would negative the offence. As observed by the Supreme Court in the cases of *Veera Ibrahim v. State of Maharashtra*, AIR 1966 SC 1167 and *Aghnu Nagesia v. State of Bihar*, AIR 1966 SC 119, no statement that contains self-exculpatory matter can amount to a confession if the exculpatory statement would negative the offence alleged to be confessed.

Another landmark case in the matter is *Pakala Narayan Swamy v. Emperor*, AIR 1939 PC 47, wherein the Privy Council held that-

- An admission of a gravely incriminating fact, even a conclusive incriminating fact, is not in itself a confession
- Self-exculpatory statement does not amount to confession
- Stating = inculpatory
- Suggesting = exculpatory

The difference / contrast between Confession and Admission is as follows:-

CONFESSION	ADMISSION
Section 24 to Section 30 of the Indian Evidence Act	Section 17 to Section 23 read with Section 31 of the Indian Evidence Act
In criminal proceedings	In civil transactions [Defined Section 17, Made by persons Sections 18, 19, 20]
Deliberately and voluntarily accepted as conclusive	Not conclusive – may operate as estoppel
Always goes against the person making	May be used on behalf of person [Exception of Section 21]
Joint trial - can be taken into consideration against co-accused [Section 30]	No evidence against other defendant
Direct admission of crime [guilty]	Inference about the liability of person making it
Is species of admission	Is genus of confession

Confession

The principle behind confession is the presumption that no person will voluntarily make a statement which is against his interest unless it be true.

The ingredients of a confession as brought out in the case of *Veera Ibrahim v. State of Maharashtra* are as follows:-

- Statement in question is confession
- Made by the accused
- Made to a person in authority
- Obtained by reason of any inducement, threat or promise, proceeding from a person in authority
- Such inducement, threat or promise must have reference to the charge against the accused