

CONFESSION UNDER OTHER STATUES

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INTRODUCTION

Confessions, though a vital piece of evidence, have been the subject of legal scrutiny, particularly in the context of their admissibility and voluntariness. The Indian Evidence Act, while laying out general rules, does not specifically define 'confession.' However, both general and special laws have addressed the issue of confessions, especially concerning coercion by authorities. This paper will explore the treatment of confessions under various special laws, including anti-terrorism laws like TADA and POTA, organized crime laws like MCOCA, and the Income Tax Act, which governs admissions in tax investigations. The focus will be on the admissibility of confessions, the legal safeguards in place, and key judicial interpretations.

The Indian Evidence Act does not define the term confession. In accordance with the Act's structure, the term "confession" first appears in Section 24 (now 'Section 22 of The Bharatiya Sakshya Adhinyam').

The idea that a person won't make false statements against his own interests is the basis for the credibility and admissibility of confessions in the context of criminal trials. Since then, the accused have been protected by numerous laws, including the Indian Constitution, the Indian Evidence Act, and the Code of Criminal Procedure, 1973. Nevertheless, despite these legal protections, police officers, including investigating officers, continue to subject accused people to physical and psychological abuse to coerce confessions; the validity of these kinds of confessions has long been questioned. Therefore, the validity of these illegally obtained confessions contradicts Article 21 of the Indian Constitution's guarantee of the due process of law or the procedure established by law.

Meaning and Nature of Confession

A 'confession' may be defined as an admission which may be made at any point of point of

time by an individual charged with crime, indicating, stating or suggesting the inference that he has committed crime. Further, confessions are any kind of statements which either admits in terms the offence or substantially at any rate all the facts constituting the offence. Confessions are very specific in nature; in the authority of Sahoo¹⁰⁰⁷ the Hon'ble court has made it clear that statement is genus, admission is species and confessions sub-species thus, admissions include confessions.

The admissibility and relevance of confessions have been addressed from Section 24 to Section 30 of the Indian Evidence Act (now 'S 22, 23 and 24 of BSA'). Additionally, sections 161, 162, and 163, alongside sections 281 and 463 of the CrPC, 1973, are crucial for comprehending confessions. Additionally, it is pertinent to note that there are various special laws enacted by the Parliament and State Legislatures regarding the admissibility and relevancy of confessions such as counter-terrorism laws, narcotic drugs and psychotropic substance laws and smuggling laws. It may be pertinent to note that the confessions obtained under anti-terrorism

¹⁰⁰⁷ AIR 1966 SC 40.

laws in comparison to the general principles of confessions their procedure appear unjust and arbitrary.

According to the general rules of evidence law, confessions made in front of police officers (section 25 of the IEA) or while they are in their custody (section 26 of the IEA) are not admissible in court. However, under the provisions of Special Laws, there is an exception to this general rule, making confessions made before high-ranking police officers admissible in court and able to be used as evidence against the maker; however, if such confessions resulted from third-degree methods, they would be inadmissible.

To provide a general understanding, confessions are defined as remarks made by an accused person implying that they are the one who did the crime. "Confession" has been defined as follows by Justice Stephen in his Digest of the Law of Evidence:

"It is an admission made at any point by a person facing criminal charges, indicating or implying that he was the one who committed the offence.

The aforementioned definition has long been accepted; however, Justice Straight rejected the application of this definition in the Queen Empress v. Jagrup¹⁰⁰⁸ case, holding that only statements that directly acknowledge guilt—as opposed to merely inculpatory admissions that fall short of a proper establishment of guilt—can be considered confessions. Subsequently, the Privy Council defined confession as follows in Pakala Narayan Swami v. Emperor¹⁰⁰⁹:

"Confessions cannot be formed out of self-exculpatory remarks if the exculpatory statement is based on a fact that, if true, would negate the accused wrongdoing. Furthermore, confessions have to acknowledge the offence in full or at least most of the circumstances that make up the offence. Confession does not include even acknowledging a fact that is

conclusively or seriously damning.

This definition has received widespread recognition. In addition, the Hon'ble Apex Court observed in the Palvinder Kaur¹⁰¹⁰ case that a confession may comprise multiple components and disclose not only the act itself but also the motive, opportunity, provocation, weaponry, intention, concealment of a weapon, and the accused's subsequent behaviour. Therefore, it can be said that mere actions and affirmative remarks will not qualify as confessions.

Rule of Hearsay Exception

Confessions and admissions are generally understood to be exceptions to the hearsay rule. In State of Maharashtra v. Kamal Ahmad Vakil Ansari, the court held that both of them fall under the Indian Evidence Act's (Sections 17 to 30) category of relevant evidence, presumably because the statements are against the interests of the people making them.

Exculpatory and Inculpatory Remarks within the Confessional Framework

Exculpatory remarks, on the other hand, lead to an explanation for the offence committed (excluding the individuals' accountability). Inculpatory statements suggest the guilt of the individual (statements putting liability on the individuals). It is a well held belief in the legal community that confessions and admissions must be interpreted in their entirety and that the courts are not qualified to accept merely the implicating evidence; rejecting the exculpatory evidence is likewise implausible.

In the case of Nishi Kant v. State of Bihar¹⁰¹¹, the Hon. Supreme Court has modified this position by noting that in situations where the confessional statements' exculpatory parts are implausible and contradicted by other evidence, courts have the authority to accept the inculpatory part and corroborate it with other evidence. Additionally, the exculpatory statements may be excluded if the evidence on file contradicts them or if they appear to be false.

¹⁰⁰⁸ (1884) ILR 6 All 509 (539) (FB)

¹⁰⁰⁹ AIR 1939 PC 47

¹⁰¹⁰ AIR 1996 SC 2736.

¹⁰¹¹ AIR 1969 SC 422

Subsequently, the Apex Court ruled in *Devka Bhikha v. Gujrat*¹⁰¹² that the accused's confessions should be considered in their entirety and that any exculpatory information should be considered supporting evidence rather than being excluded. On the other hand, there is no reason to reject the exculpatory element if there is insufficient evidence to support it.

While the Indian Evidence Act provides safeguards against coerced confessions, several special laws create exceptions in the interest of national security, organized crime prevention, and tax enforcement. These laws include TADA, POTA, UAPA, MCOCA, and the Income Tax Act, each offering unique provisions regarding the admissibility of confessions and admissions.

Admission under Special Laws

The Terrorist and Disruptive Activities (Prevention) Act, 1987

This Act was introduced with the aim of combating terrorism and disruptive activities. Section 15 of TADA dealt with confessions, the title of which stated that 'Certain confessions made to police officers to be taken into consideration' providing that a confession made in front of a police officer who is not below the rank of superintendent of police and recorded by that police officer in writing or through any other mechanical devices like cassettes, tapes, or sound tracks from which sounds or images can be reproduced is admissible in the trial of that person or co-accused, abettor, or conspirator for an offence under this act or rules made there under, regardless of anything in the Code of Criminal Procedure, 1973, or the Indian Evidence Act, 1872, subject to the provisions of this section¹⁰¹³.

The section's proviso stipulates that the conspirator, co-accused, or abettor is charged and tried in the same case as the accused. Further, under sub-section(2)¹⁰¹⁴ it has been

made mandatory that the police officers, before recording confessions they are required to explain the person making it that he is not bound to make such confessions moreover, if he does so these statements may be used as evidence against him and they should obtain the satisfaction that the individual is confessing voluntarily.

Admissibility

The constitutionality of Section 15, which permitted police officers above the rank of Superintendent to record confessions, has been affirmed in the decision of *Kartar Singh v. State of Punjab*¹⁰¹⁵. This case established that Section 15 was an exception to Sections 25 and 26 of the Evidence Act. The following guidelines were established by the Honourable Supreme Court to ensure that confessions made during pre-indictment interrogations by police officers ranking no lower than an SP are not tainted with any vice and strictly adhere to the established and widely acknowledged aesthetic principles of fundamental fairness:

- The confession ought to be documented in a free atmosphere using the same language in which the individual was examined and as narrated by him. The individual whose confession was recorded under Section 15(1) of the TADA Act must appear before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, to whom the confession is mandated to be sent under Rule 15(5) of the TADA Rules, 1987, as soon as possible, along with the original confession statement, whether it is in writing or was recorded on a mechanical device.
- If the accused makes a statement, the Chief Metropolitan Magistrate or Chief Judicial Magistrate should meticulously record it and obtain his signature. If there is a complaint about torture, the accused should be brought in for a medical examination before a medical officer not lower in rank than of an assistant Civil Surgeon.

¹⁰¹² (1996) 11 SCC 641

¹⁰¹³ The Terrorist and Disruptive Activities (Prevention) Act, 1987, S15(1)

¹⁰¹⁴ Ibid. S15(2)

¹⁰¹⁵ (1994) 3 SCC 569

• Regardless of the provisions stated in the 1973 Code of Criminal Procedure, no police officer who holds a rank lower than Assistant Commissioner of Police in Metropolitan areas and Deputy Superintendent of Police elsewhere, or a police officer of similar rank, is permitted to look into any offence related to the TADA Act.

• In the cases where the police officer wants to have the custody of any individual for pre-indictment or pre trial interrogation from the judicial custody then he is required to file an affidavit sworn by him describing the reasons for such custody and also for the delays if any in seeking such custody ('police custody')

• In the State v. Nalini and Ors.¹⁰¹⁶ case. The Hon'ble Court rejected the argument that a confession made under the TADA Act is not a substantive piece of evidence and cannot be used against the co-accused unless it is supported by other evidence in a material way. It also held that one accused person's confession cannot corroborate another accused confession, and that section 30 of the Evidence Act would not apply in that situation. The court noted that section 15 of the TADA Act represents a significant departure from ordinary law and that the correct legal position is that a confession recorded under section 15 of the TADA Act is a substantive piece of evidence that can be used against the co-accused as well. This interpretation would accomplish the goal of the provision rather than frustrate or truncate it.

The Court then considered the following factors regarding the evidentiary value of confessions recorded under Section 15 of the TADA in the case of Yakub Abdul Razak Menon v. State of Maharashtra¹⁰¹⁷:

• The confessional statement is sufficient to support the maker's conviction if it is properly recorded, satisfies the requirements of Section 15 and the Rules made thereunder of 1987, and is determined by the court to have been made voluntarily and honestly.

• Rule 15(5) of TADA Rules, 1987, which requires a confessional statement to be sent to either the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, who will then have to send it to the Designated Court, is only directory and not necessary. Nonetheless, the court evaluating the case of the confessional statement being directly transmitted to the assigned court must satisfy itself about the particulars of each case, including whether or not the confessional statement's authenticity is called into question by the direct transmission.

• It is a matter of court to decide whether such confessions will be requiring corroboration or not.

The Hon'ble Court has explained that as a general rule with regard to the use of confession against co-accused it will require corroboration however, in the cases where the court obtains the satisfaction that the probative value of such a confession is such that it does not require corroboration then it can be the basis of conviction without corroboration.

The nature of corroboration regarding the use of confessions against the maker as well as the use of same against the co-accused is general unless the court states that such corroboration is required on the material fact as well because of the facts and circumstances of the case however the degree required is of the level of prudent man.

• **Admissions under the 2002 Prevention of Terrorism Act**

After the TADA was repealed in 2002, the Prevention of Terrorism Act (henceforth referred to as "POTA") was implemented. In accordance with POTA Section 32, which addresses the admissibility of confessions given to police officers. It states that confessions made before police officers who are not below the rank of Superintendent of Police and recorded by such officers either in writing or by way of mechanical or electronic devices like cassettes, tapes, or sound tracks from which sound or images can be reproduced shall be admissible

¹⁰¹⁶ (1999) 5 SCC 253

¹⁰¹⁷ (2013) 13 SCC 1

in the trial of such person for an offence under this act or the rules made thereunder, regardless of anything in the Code of Criminal Procedure, 1973, or the Indian Evidence Act, 1872, but subject to the provisions of this section¹⁰¹⁸.

Before recording any confessions made by an individual under this section, a police officer must inform the person that he is not required to make a confession and that doing so, such statements could be used against him¹⁰¹⁹.

This section's proviso specifies that police personnel are not allowed to force or coerce a person who chooses to remain silent to confess. The confessions must be recorded in the same language that person speaks in, and in a free atmosphere. In addition, the individual from whom a confession has been obtained must be produced in person within 48 hours before the Chief Metropolitan Court or the Chief Judicial Magistrate Court, along with the original written or recorded confession statement on a mechanical or electronic device¹⁰²⁰.

After recording of the statement the Chief Metropolitan Magistrate or the Chief Judicial Magistrate shall get the person's signature or thumb impression and in the case of any complaint of any torture such individual will be directed towards the medical examination which shall be done before a medical officer who is not lower in rank than an assistant civil surgeon and thereafter, he shall be sent for the judicial custody. However, it may be noted that the POTA was repealed in the year of 2004¹⁰²¹.

Case Laws

It was decided in *Simarjit Singh Mann v. Union of India*¹⁰²² that confessions made in front of police officials may be recorded under the POTA, 2002. Confessions of this kind may be used against the accused. Sufficient measures have been put in place to protect the interests of those who have been accused. No provisions of POTA

were therefore, found to be arbitrary.

The court noted in *State of NCT of Delhi v. Navjot Sindhu*¹⁰²³ that the argument that section 164 of the CrPC is the only way the confession can be considered evidence against the accused would not hold water. The confession recorded under Section 32 of POTA retains its evidentiary value despite the phrase "admissible only" being used without the words "in evidence." If this isn't the case, then section 32(1), and particularly the word "admissible," will become meaningless and ineffective.

In the authority of *Nazir Ahmad v. State of Delhi*¹⁰²⁴ it was held that for the purposes of recording confessions under section 32 of POTA there is a necessity to comply with the guidelines accorded by the Supreme Court in *Kartar Singh vs State of Punjab*. Thereafter, in the authority of *Jaywant Dattatraya Suryarao v State of Maharashtra* it was held that when the police officer recorded the statements made in the form of confessions it consists of the irregularities, tried cannot be vitiated.

In *Adam bhai Suleman bhai Ajmeri v. State of Gujrat*¹⁰²⁵, it was decided that because the POTA being a special Act, its provisions will take precedence over those of the CrPC, 1973. Section 32 of the POTA specifies a specific process for confession recording, which must be followed in order for the confession to be acceptable.

• Unlawful Activities(Prevention) Act, 1967

All the laws pertaining to terror activities and related crimes were implemented under UAPA after the POTA Act was repealed. The only distinction between these two statutes is that police confessions are not admissible. Confessions made in front of police officers are not specifically covered by the current act, but they may be in part under Section 46 of the(UAPA), which states that evidence gathered through wiretapping, electronic

¹⁰¹⁸ The Prevention of Terrorism Act, 2002, S32(1)

¹⁰¹⁹ Ibid. S32(2)

¹⁰²⁰ Ibid. S 32(3)

¹⁰²¹ Ibid. S 32(4) & 32(5)

¹⁰²² 2002 CRI LJ 3368(P&H)

¹⁰²³ AIR 2005 SC 3820

¹⁰²⁴ 2002 CRI LJ 213(SC)

¹⁰²⁵ (2014) 7 SCC 716

communication, or oral communication under the terms of the Indian Telegraph Act of 1885, the Information Technology Act of 2000, or any other law currently in effect shall be admissible as evidence against the accused in court during the trial of a case¹⁰²⁶.

This section's first proviso stipulates that unless each accused party has received a copy of the order from the competent authority under the aforementioned law, which directed the interpretation at least ten days prior to the trial hearing or proceeding, the contents of any wiretapped, intercepted, electronic, or oral communication, or any evidence derived therefrom, shall not be admitted into evidence or otherwise disclosed in any trial, hearing, or other proceedings in any court.

The second proviso of this section discusses about the the judicial discretion in waiving of the period of ten days while trying the matter if he obtains the satisfaction that it was not possible to furnish the accused with such order ten days before the trial, hearing or proceeding and merely because of the delay in receiving such order no prejudice shall be caused to the accused.

Admissibility

Section 46 of the UAPA makes confession admissible thereby making all the communications admissible intercepted by the police under any applicable law. Under this Act, wide powers have been entrusted to the police officers specifically in regard of the conspiracies. However, at the same time safeguards has been imposed stating that no such evidence can be relied upon until and unless the order of competent authority has been obtained authorising such an intercept is provided to the accused.

• **The Maharashtra Control of Organised Crime Act, 1999(MCOCA)**

In its Section 18, the aforementioned act also addresses confessions to be admissible in front

of a police officer. This section stipulates that a confession made in front of a police officer who is not below the rank of superintendent of police and recorded by that police officer in writing or on mechanical devices like cassettes, tapes, or sound tracks from which sounds or images can be reproduced shall be admissible in the trial of that person or co-accused, abettor, or conspirator, subject to the provisions of this section and in spite of anything in the Code of Criminal Procedure, 1973, or the Indian Evidence Act, 1872¹⁰²⁷.

This section's proviso stipulates that the co-accused, conspirator or abettor is charged and tried in the same case as the accused; aside from that, confessions must be documented in a free environment using the same language as the examination and according to the individual's account¹⁰²⁸.

Before recording a confession under this subsection, police officers need to inform that he is not required to make any statements and that if he chooses to, those statements may be used against him. They also state that they will not record any confessions unless they have confirmation from the person that the confession is being made voluntarily. After recording the voluntary confession, the concerned police officer must attest in writing below the confession, stating the date and time of the confession, that he is personally satisfied with its voluntary nature¹⁰²⁹.

According to this section, every confession recorder must be sent right away to the Chief Judicial Magistrate or Chief Metropolitan Magistrate who has jurisdiction over the area where the confession was recorded. This magistrate will then forward the recorded confession to the Special Court, which has the authority to take cognizance of the offence. Along with the original confession statement, whether written or recorded on a mechanical device, the person from whom a confession has

¹⁰²⁷ The Maharashtra Control of Organised Crime Act, 1999, S 18(1)

¹⁰²⁸ Ibid. S 18(2)

¹⁰²⁹ Ibid. S18(3)

¹⁰²⁶ The Unlawful Activities (Prevention) Act, 1967, S 46

been recorded under sub-section (1) must also appear without undue delay before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, to whom the confession is required to be sent under sub-section (4)¹⁰³⁰. In the event that there is a complaint about torture, the Chief Metropolitan Magistrate or Chief Judicial Magistrate will carefully document any statement the accused makes and obtain his signature. If there is a complaint about torture, the accused will be brought in for a medical examination before a Medical Officer who is at least an Assistant Civil Surgeon¹⁰³¹.

Case Laws

Within the framework of Dayanand B. Nayak v. Ketan K. Tirodkar¹⁰³², the Court decided that a police officer's confession, recorded within the MCOCA, should be accepted as admissible evidence. Nonetheless, in order to register the accused person's confession under MCOCA, the court must do the following:

- The confession must be recorded in a free environment using the same language in which the individual was examined and as narrated by him.
- The policeman informs the individual that he is not under compulsion to confess and that doing so could be used against him in the future. Additionally, the policeman made sure that the accused made the confession willingly.
- In accordance with Section 18(1) of the MCOCA, the person whose confession was recorded must appear before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, to whom the confession is mandated to be sent pursuant to Section 18(4), as soon as possible. The original confession statement, whether written or recorded on a mechanical device, should also be presented.
- If the accused makes a statement, the Chief Metropolitan Magistrate or Chief Judicial Magistrate should meticulously record it and

obtain his signature. If there is a complaint about torture, the accused should be brought in for a medical examination before a medical officer who is at least as senior as an assistant Civil Surgeon.

• **Narcotics, Drugs, and Psychotropic Substances Act, 1985**

Regarding the admissibility of confessions under this Act, Section 67 states that any officer mentioned in Section 42 who is authorised by the Central Government or a State Government to do so may, in the course of any investigation regarding any violations of this Act's provisions;

(a) Request information to determine whether any of the provisions of this Act, or any rules or orders established under it, have been broken in order to satisfy oneself;

(b) Requiring anyone to provide or submit any records or anything that are pertinent or helpful to the inquiry;

(c) Examination of everyone with knowledge of the case's facts and circumstances¹⁰³³

Cases

In the case of Raj Kumar v. Union of India¹⁰³⁴, it was decided that although a confession made in front of an officer in the Department of Revenue Intelligence under the NDPS Act, 1985, is not protected by Section 25 of the Evidence Act, it still needs to be examined more closely than a confession made to a private individual or an official who is not authorised to conduct an investigation under the Act.

A statement made under Section 67 of the NDPS Act, 1985 is not the same as a statement made under Section 161 of the CrPC, according to the ruling in Kanhiyalal v. Union of India¹⁰³⁵. The confession made under Section 67 of the NDPS Act, 1985 is exempt from the application of Sections 24 to 27 of the Evidence Act and may be used against the maker. When it is supported by additional evidence, it may serve as the foundation for a conviction.

¹⁰³⁰ Ibid. S 18(4)

¹⁰³¹ Ibid. S 18(5) & 18(6)

¹⁰³² (2004) CRI LJ 2177

¹⁰³³ The Narcotic Drugs and Psychotropic Substances Act, 1986, S 67.

¹⁰³⁴ AIR 1991 SC 45

¹⁰³⁵ AIR 2008 SC 1044

In *Jarnail Singh v. State of Punjab*¹⁰³⁶, the accused provided Section 50 of the NDPS Act as authorisation for the Police Inspector to search him; during the search, 1 kg and 750 grams of opium were found in his possession. It was decided that the consent statement was admissible and that the evidence act's bar under Section 25 did not apply. In this instance, the appellant's consent given did not result in any confession regarding any of the offences for which he was later charged.

It was decided in *Ram Singh v. Central Bureau of Narcotics*¹⁰³⁷ that although the officers granted investigative powers under the NDPS Act are not law enforcement officials, the confessions they record can be used as evidence.

Customs Act, 1962

Confessions are not covered by any specific legislation under the Customs Act of 1962. Nonetheless, it might fall under the purview of Sections 107 and 108, dealing with the powers to examine persons and to summon persons to give evidences and produce documents respectively. Section 107 of the Act says that by way of general or special order of the Customs Commissioner any officer of the customs during the courses of enquiry in regard to the smuggling of any goods¹⁰³⁸

- May require any individual to produce or deliver any document or thing relevant for the purposes of enquiry.
- May examine any person who is acquainted with the facts and circumstances of the case.

According to Section 108 of the Act, any gazetted customs officer is authorised to call anyone whose presence he deems necessary in order for them to provide testimony, produce documents, or do anything else related to any investigation the officer is conducting with the smuggling of any goods.

- The summons to produce documents or other things may be used for the purposes of certain documents or things or for the production of any thing or documents or the things of a prescribed description which might be in the possession or under the control of individuals summoned.

- Every person so summoned must appear in person or through an authorised representative, as instructed by the officer, and they must all tell the truth about every matter they are questioned about, provide testimony, with respect to the subject matter they are examined and if required they are also bound to produce documents and other things required¹⁰³⁹.

The proviso to this section specifies that every such inquiry as above shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code. The exemption under Section 132 of the Code of Civil Procedure, 1908 shall apply for the purposes of requisition for attendance under this section¹⁰⁴⁰.

Case Laws

According to the ruling in *State of Punjab v. Barkat Ram*¹⁰⁴¹, customs officers operating under the 1962 Custom Act are not considered police personnel for the purposes of Section 25 of the Indian Evidence Act. Consequently, unless the accused is able to utilise Section 24 of the Evidence Act, the statement made by the accused to the customs officer will not be covered by Section 25 of the Indian Evidence Act and will be admissible in evidence.

A voluntary confession given by an accused person prosecuted under the Customs Act of 1962 to a customs officer, even if it is retracted, is acceptable in *Haroom v. S. A.*¹⁰⁴² and needs to be corroborated.

A confession made by a witness called as a witness in a process under Sections 107 and 108

¹⁰³⁶ AIR 2011 SC 964

¹⁰³⁷ AIR 2011 SC 2490

¹⁰³⁸ The Customs Act, 1962, S 107 & 108(1)

¹⁰³⁹ Ibid, S 108(2)

¹⁰⁴⁰ Ibid. S 108(3) & 108(4)

¹⁰⁴¹ AIR 1962 SC 267

¹⁰⁴² 1968 SC 832

of the Customs Act, 1962 is admissible, according to the ruling in *Roshan Bibi v. Joint Secretary Government of Tamil Nadu*¹⁰⁴³, because neither the summoned party nor the customs officer is a police official. However, it would be inadmissible if the confession was obtained by the use of the third degree procedure.

In the case of *Surjeet Singh Chhabra v. Union of India*¹⁰⁴⁴, it was decided that the accused's admission to the customs officer—who was not a police officer—that he had smuggled gold and other commodities into the nation was reliable evidence.

Confessions and Evidence under the Income Tax Act, 1961

Under the Income Tax Act, 1961, the concept of confessions is not as directly relevant as in criminal law, but statements or admissions made during an investigation or assessment process can have a significant impact on the determination of tax liabilities. Evidence in tax cases can include documents, statements from the taxpayer, financial records, and admissions made during proceedings. The Income Tax Department has the authority to summon individuals, require production of documents, and conduct inquiries under specific provisions of the Act.

Section 132 – Search and Seizure

One of the primary sections where confessions or admissions become relevant is Section 132 of the Income Tax Act, which deals with search and seizure. During these searches, income tax authorities can obtain statements from the taxpayer or other individuals involved in tax evasion or concealment of income.

Admissibility of Statements: Under Section 132(4), any statement made by a person during the course of search and seizure proceedings is admissible as evidence. These statements can be in the form of confessions regarding undisclosed income or assets. However, for

such admissions to hold weight, they must be voluntary and not coerced.

Relevance in Tax Evasion Cases: These statements are critical in proving cases of tax evasion, where the taxpayer admits to having concealed income or assets that were not declared in previous returns. Such confessions are often pivotal in the assessment of additional tax liabilities and penalties.

Section 131 – Power to Summon and Examine

Under Section 131, income tax authorities have powers similar to a civil court to summon individuals, enforce attendance, and examine individuals under oath. During such proceedings, any admissions or statements made by the taxpayer can be used as evidence in determining the truth of the tax return or the investigation.

Use of Confessions in Assessments: Statements obtained under oath can be crucial in cases where taxpayers admit to incorrect declarations, such as underreporting income or overstating deductions.

Confessions in the Context of Settlement

The Income Tax Settlement Commission provides an avenue for taxpayers to disclose concealed income and settle tax disputes. In this forum, admissions or confessions regarding previously undisclosed income can lead to a negotiated settlement, provided the disclosure is full and voluntary.

Voluntary Disclosure: Taxpayers are encouraged to make a voluntary admission of any undisclosed income, which can then be used to resolve disputes without the need for prolonged litigation.

Relevant Case Laws

In *Pullangode Rubber Produce Co. Ltd. v. State of Kerala* (1973), the Supreme Court held that while an admission is an important piece of evidence, it is not conclusive proof of the facts admitted. The court emphasized that admissions made during tax proceedings should be corroborated with other evidence before arriving at a

¹⁰⁴³ 1984 CR IJ 134

¹⁰⁴⁴ (1997) 1 SCC 508

conclusion.

Surjeet Singh Chhabra v. Union of India (1997) held that admissions made to customs officers, while not made before police officers, can still be reliable evidence under the law, which can be applied similarly to statements made under tax law.

Conclusion

This paper has explored the admissibility and treatment of confessions under various special laws in India, such as the Terrorist and Disruptive Activities (Prevention) Act (TADA), Prevention of Terrorism Act (POTA), Unlawful Activities Prevention Act (UAPA), and Maharashtra Control of Organised Crime Act (MCOCA). Additionally, the paper examined how confessions and evidence are handled in the context of tax law under the Income Tax Act, 1961. Across these legal frameworks, the treatment of confessions demonstrates a balance between the state's need for maintaining security and law enforcement and the protection of individual rights from coercion and abuse.

In criminal law, particularly under TADA and POTA, confessions made before police officers are admissible under specific conditions, such as rank restrictions and procedural safeguards. These laws represent a significant departure from the general provisions of the Indian Evidence Act, 1872, which generally bars confessions made to police officers under Sections 25 and 26. The justification for these exceptions is rooted in the context of national security and the challenges posed by terrorism and organized crime. However, these exceptions have been subject to legal scrutiny, especially regarding concerns about third-degree methods used to extract confessions and the potential infringement on the rights of the accused. The Supreme Court in cases like Kartar Singh v. State of Punjab and Yakub Abdul Razak Menon v. State of Maharashtra has affirmed the admissibility of such confessions, provided they meet the strict procedural requirements of voluntariness and honesty.

Similarly, under MCOCA, confessions made before high-ranking police officers are admissible, and courts have upheld the admissibility of such confessions, as in the Dayanand B. Nayak v. Ketan K. Tirodkar case. Despite these laws' focus on tackling serious crimes like terrorism and organized crime, courts have emphasized the need for fairness and the prevention of coercion in obtaining confessions.

On the other hand, the Income Tax Act, 1961, while not dealing directly with criminal confessions, includes provisions under Sections 132 and 131 that allow for the collection of evidence through statements made during search and seizure or summoning proceedings. In tax law, such admissions can significantly impact the determination of tax liabilities, especially in cases of undisclosed income or tax evasion. Although these admissions are not confessions in the strict criminal law sense, they play a pivotal role in enforcing tax compliance. The courts have generally required that such statements be voluntary and corroborated by additional evidence, as seen in Pullangode Rubber Produce Co. Ltd. v. State of Kerala.

In contrast to laws like TADA and POTA, UAPA no longer permits confessions made to police officers as admissible evidence, though intercepted communications under Section 46 of the Act can be used in trials. This represents a more balanced approach, providing law enforcement with tools to gather evidence while upholding stronger protections against coerced confessions.

Overall, the analysis reveals that while special laws in India create exceptions to the general prohibition on confessions made to police officers, these exceptions are carefully regulated by procedural safeguards and judicial scrutiny. However, there remains a tension between the state's interest in combating serious crimes and the protection of individuals from coercion and unfair treatment. Moving forward, there is a need to further strengthen safeguards against the misuse of



these legal provisions, especially considering the potential human rights implications.

In the realm of tax law, admissions and evidence collection continue to be vital for ensuring compliance, but as in criminal law, ensuring that these admissions are obtained without coercion and are properly corroborated is essential to maintaining the integrity of the legal process.

