

A CRITICAL ANALYSIS OF ORAL ADMISSION UNDER INDIAN EVIDENCE ACT 1872

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Abstract:

As the saying goes by “ A wise man, therefore proportions his belief to the evidence.” Evidence plays an important role in the judicial process. . As during the trial it is the evidence which decides whether the convict is guilty or not. This evidence is of two types namely oral and documentary evidence. As the name says oral evidence is the verbal testimony of the witness. All oral evidences can be accepted in courts as there are certain exceptions certain grounds which the evidence needs to satisfy . This applies to documentary evidence too. The documentary evidence refers to the written statement or the records in written or printed format produced as evidence in courts. As malpractices takes place while submission of evidence in court these criteria was brought up in order to protect the justice which needs to be given to the victim of the crime done. These evidence irrespective of the types oral or documentary must first pass through the basic moral evidence phase which is acceptable by our senses and satisfies our brain. If it does pass through this basic level criteria then comes the future process of checking whether the evidence is involved of some malpractices or not. Thus the research shall be about the detailed analysis of the evidences and their exclusion in the judicial process.

KEYWORDS: evidence , document , witness, proved , fact , issue

INTRODUCTION:

Section 17 of the Indian Evidence Act defines Admissions, according to which an admission means a statement (oral or documentary or contained in electronic from) which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the person and under the circumstances mentioned under sections 18 to 23 of the Indian Evidence Act.

It is important for an admission to be clear, precise and not vague or ambiguous. An admission is the best evidence that an opposite party can rely upon, though not conclusive, it is nevertheless critical on the point unless proved false or is validly allowed to be withdrawn.

(i) The party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document; or

(ii) The genuineness of a document produced is in question.

The English Law on the point was laid down in *Slatterie v. Pooley*, where it was held that the oral admission of a party as to the contents of a document is admissible, even when the document might have been produced as evidence against him, when such contents are directly in issue.

Although this leading decision has held the field in England since 1840, it has received much criticism and has been applied with several modifications. The decision was disapproved in the Irish case of *Lawless v. Dueale*, where the Judge opined that the doctrine laid down in *Slatterie v. Pooley* is a most dangerous proposition. This research is about the a wider study on oral admissions.

RESEARCH QUESTION:

Whether oral admission is a conclusive proof?

OBJECTIVE:

- To explain importance of oral admission
- To know the productivity of secondary evidence.

HYPOTHESIS:

Admissions are not conclusive proof of matters admitted but may estoppel under the provisions contained.

RESEARCH METHODOLOGY:

The researcher has followed secondary data collection. This is a doctrinal study. The researcher has also utilised commentaries, books, treaties, articles, notes comments and other writings to incorporate the various views of multitude of jurists, with the intention of presenting a holistic view. The researcher

has made extensive use of Case Laws in this paper , so as this paper , so as to discern a trend in the judicial pronouncements.

Admissions are statements, whether express or implied, whether oral or written, which are wholly or partly adverse to a party's case. Admissions may be either formal or informal.

Formal admissions

Formal admissions may be made by the statements of case or otherwise in writing including admissions made in compliance with a notice to admit or on a case management conference or other directions hearing.

Informal admissions

Informal admissions are simply items of evidence and may be disproved or explained away at trial by evidence to the contrary. Although they are hearsay, in that they are assertions made other than by a person while giving oral evidence at trial and are adduced as evidence of the facts asserted, they are admissible in evidence by virtue of Civil Evidence Act 1995, s 1.

Where the informal admission is made by a party personally, the only conditions of admissibility are:

- That the statement must be at least partly adverse;
- That the statement was made in the same legal capacity as that in which the party is now suing or being sued;
- That the statement is received in its entirety.

“An admission is a statement, oral or documentary (or contained in electronic form) which suggests any interference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.”

An admission is a statement of facts which is of such a nature that it waives the necessity of producing evidence and 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 his contention, is a fact relevant to the issue. The

admissions are very weak kind of evidence, and thus, the court may out rightly reject them if it is satisfied that they are untrue.

The Supreme Court has observed: Admissions which are defined in Sections 17 and 20 and which fulfils the mandatory requirements of Section 21 of the Indian Evidence Act, are substantive evidence. The Court has in various cases held that an admission is the best evidence against the party making it and though not conclusive, shifts the onus to the maker. This shift in onus is due to the principle that what a party himself admits to be true may be reasonably presumed to be true and therefore unless the presumption is rebutted the admission must be taken to be true.

There is this observation in Phipson on evidence “Subject to certain exceptions, the general rule, that both in civil and criminal cases, is that any relevant statement made by a party is evidence against him. R. v. Erdheim. 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 Beg. J. of the Supreme Court 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 very person in his own words. It has to be proved to be the statement of the person who made it.

An admission must be examined as a whole and not in parts. Statements in pleadings are admissions against the party making them. He cannot be allowed to rely upon favourable parts and throw the rest by oral evidence. In Union of India v. Moksh Builders etc. Court stated that an admission is substantive evidence of the fact admitted and when properly proved is relevant irrespective of the fact whether the person making such admission made it in witness-box or not and 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 WIG-MORE ON EVIDENCE 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.

It is immaterial to whom an admission is made. An admission made to a stranger is relevant. In English law, the term admission and confession are used distinctly to cover different situations. The term ‘admission’ is used while dealing with civil cases, whereas the term ‘confession’ is used while dealing with criminal cases so as to mean ‘the acknowledgement of guilt’. This distinction is not maintained in the Indian Evidence Act, and Sections 17 to 22 are applicable to civil as well as criminal cases. Statements by the accused are admissions under ss. 17 and 18, and prima facie evidence against the

maker, but not in his favour. The word 'confession' has not been defined anywhere. The 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 an admission

Admissions not conclusive proof, but may estop.-Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained. Section 31 says that admissions are not conclusive proof of the matters admitted but they may operate as Estoppel under the provision of this Act. The provision is further supplemented by Section 58 under which it is provided, "Facts admitted need not to be proved." It says that no facts need to be proved in any proceeding which the parties hereto or their agent agreed to admit at the hearing or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading enforce at the time they are deemed to have admitted by their pleading.

CONCLUSION:

An oral admission shall be known as a evidence against the party making an untrue statement which might not bind in nature. Admissions duly proved are admissible evidence irrespective of whether the party making the admission appeared in the Witness box or not. In fact, Admission is best substantive evidence that an opposite party can rely upon it. The evidentiary value of admission only by government is merely relevant and not conclusive, unless the Party to whom they are made has acted upon and thus altered his detriment.

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