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Relevancy of Confession

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Abstract: *Confession occupies a significant position in the criminal justice system as an important form of evidence through which an accused may acknowledge involvement in an offence. However, because a confession can substantially affect the rights and liberty of an accused, its admissibility and evidentiary value are subject to important legal safeguards. The law distinguishes between voluntary and involuntary confessions and places restrictions on confessions obtained through coercion, inducement, threat, or improper influence. The relevance of confession must therefore be examined not merely from the perspective of proving guilt but also in light of the principles of fairness, due process, and protection against self-incrimination. This study examines the concept, admissibility, relevancy, and evidentiary value of confessions in criminal proceedings. It further considers judicial approaches to determining whether a confession is voluntary and reliable, as well as the safeguards designed to prevent abuse during investigation and trial. The study highlights the balance that criminal law seeks to maintain between effective law enforcement and the fundamental rights of accused persons. Ultimately, the relevance of confession depends upon its legal admissibility, voluntariness, reliability, and compliance with established procedural safeguards. The study ultimately seeks to demonstrate that confession has a dual character within the criminal justice system. On one hand, it can serve as an important investigative and evidentiary tool for discovering the truth and facilitating the adjudication of criminal cases. On the other hand, its misuse may threaten the dignity, liberty, and fundamental rights of the accused. The law therefore attempts to maintain a balance between the legitimate interests of crime detection and the protection of individual rights. The relevancy of confession should accordingly be assessed through the combined principles of legality, voluntariness, reliability, fairness, and constitutional protection. A properly regulated law of confession is essential not only for securing convictions where guilt is established through lawful evidence but also for preventing injustice arising from coerced, unreliable, or improperly obtained statements.*

Keywords: Confession, dying declaration, admissions

I. INTRODUCTION

The administration of criminal justice is primarily concerned with discovering the truth, determining the guilt or innocence of an accused person, and ensuring that justice is administered in accordance with law. Evidence plays a fundamental role in this process because criminal courts generally determine the existence or non-existence of facts on the basis of legally admissible evidence. Among the various forms of evidence recognised by criminal law, confession occupies a particularly important and sensitive position. A confession is generally understood as a statement made by an accused person which admits or substantially acknowledges his or her involvement in the commission of an offence.1 Since such a statement may directly connect an accused with the alleged crime, confession has traditionally been regarded as an important form of evidence in criminal proceedings.2 The relevance of confession arises from its potential to assist the court in determining facts connected with the commission of an offence. In appropriate

[1] *Pakala Narayana Swami v King-Emperor* [1939] UKPC 20, AIR 1939 PC 47.
[2] *Subramania Goundan v State of Madras* AIR 1958 SC 66.

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circumstances, a voluntary and reliable confession may provide significant evidence regarding the involvement of an accused. It may also assist investigators in understanding the circumstances of an offence, identifying relevant facts, discovering material objects, or establishing connections between different pieces of evidence. However, the importance attached to confession cannot be separated from the circumstances in which the statement was obtained. A confession that is made voluntarily and freely stands on a different legal footing from a statement obtained through force, threat, inducement, coercion, or improper influence. The law relating to confession has therefore developed around two competing considerations. The first is the legitimate interest of the State in investigating offences and bringing offenders to justice. The second is the protection of the rights and liberties of persons accused of criminal offences. Criminal justice cannot be based merely on obtaining admissions from accused persons. It must also ensure that evidence is obtained and presented through lawful and fair procedures. This is particularly important because an involuntary or unreliable confession can have serious consequences, including the possibility of wrongful conviction.3 The concept of confession is closely connected with the broader law of evidence relating to admissions and statements made by accused persons. Not every statement made by an accused constitutes a confession in the legal sense. Courts are required to examine the substance and circumstances of a statement to determine its true character and evidentiary significance. The distinction between an admission and a confession is therefore important in understanding the rules governing their admissibility and evidentiary value.Confessions may broadly arise in different circumstances. A confession may be made before a judicial authority, to another person, during the course of an investigation, or in other circumstances recognised by law. Judicial and extra-judicial confessions may differ considerably in their evidentiary circumstances. A judicial confession is generally made before a competent judicial authority in accordance with prescribed procedures, whereas an extra-judicial confession may be made voluntarily to a private person or another individual outside formal judicial proceedings. Courts generally examine such evidence carefully, particularly where there is a possibility of fabrication, misunderstanding, coercion, or other circumstances affecting reliability. One of the most important principles concerning confession is the requirement of voluntariness. A confession should represent the free and conscious decision of the person making it. Where a statement is obtained as a result of threat, inducement, promise, coercion, or other improper influence, its reliability and legal admissibility may be seriously affected.4 This principle reflects the fundamental idea that the criminal justice system must seek truth through lawful means rather than through compelled self-incrimination.

II. MEANING OF CONFESSION

In India, the rules and regulations governing the admissibility and use of confessions are provided by the Adhiniyam. It sets the standards for what constitutes a valid confession, the circumstances under which confessions are admissible, and the consequences of a confession.

Confession is a statement made by an accused person which, "admits any fact in issue or relevant fact, and that statement will be admissible in evidence against him."

This underscores the crucial element of an admission by the accused regarding fact that is relevant to the case. In other words, a confession is an acknowledgment of the accused's involvement in the alleged criminal activity.

Confession is one of the most compelling pieces of evidence in criminal law. It is essentially an acknowledgment or admission made by an accused person, stating that he committed the offence with which he is charged.

Confessions can be vital component of criminal trials, often being the proverbial "smoking gun" that proves a defendant's guilt beyond a reasonable doubt. However, the use of confessions in the legal system must be carefully regulated to ensure fairness and the protection of individual rights.

[3] *Pakala Narayana Swami v King-Emperor* [1939] UKPC 20, AIR 1939 PC 47.

[4] Constitution of India, art 20(3); *State of Bombay v Kathi Kalu Oghad* AIR 1961 SC 1808.

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In civil cases, a relevant statement is considered an admission, while in criminal cases, a relevant statement is regarded as a confession.

The term 'confession' is nowhere defined or expressed in the Adhiniyam. Section 15 expressly provides that any statement whether oral or in the form of documentary or contained in electronic form, which put forward for the consideration of any conclusion to the fact in issue or to the relevant facts is "Admission". The statements may infer any reasoning for concluding or suggesting that he is guilty of a crime. Thus, Confession in other words can be defined as admission by the accused in the criminal proceedings is a confession". Sections 22, 23 and 24 deal with confessions5. However, the Adhiniyam does not define a confession but includes in its admissions of which it is a species. Thus, confessions are a special form of admission. Whereas every confession must be an admission but every admission may not amount to a confession.

A confession is relevant as an admission unless it is made :-

(a) To a person in authority in consequence of some inducement, threat or promise held out by him in reference to the charge against the accused.

(b) To a Police Officer;

(c) To anyone at a time when the accused is in the custody of a Police Officer and no Magistrate is present.

Thus, a statement made by an accused person if it is an admission, is admissible in evidence. The confession is a piece of evidence only against its maker and against another person who is being jointly tried with him for an offence. The confession made in front of a magistrate in a native state recorded is admissible against its maker and is also admissible against co-accused under Section 24.6

Illustrations:

(a) A and B are jointly tried for the murder of C. It is proved that A said "B and I murdered C". The Court may consider the effect of this confession as against B.

(b) A is on trial for the murder of C. There is evidence to show that C was murdered by A and B and that B said "A and I murdered C". This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.

Section 22: Confession caused by inducement, threat, coercion or promise, when irrelevant in criminal proceeding:

A confession made by an accused individual shall be deemed inadmissible in criminal proceedings when the court determines that such confession was obtained through:

- Inducements, threats, coercion, or promises.
- Actions by persons in authority that relate to the charges.
- Circumstances that would reasonably lead the accused to believe that confessing would result in personal benefit or help them avoid harm.

Primary Exception: If the court finds that any negative influence has been completely eliminated before the confession was made, then such confession becomes admissible.

Secondary Exception: A confession that is otherwise legally relevant does not lose its admissibility simply because it was:

- Made under assurance of confidentiality.
- Obtained through deception of the accused.
- Made while the accused was intoxicated.
- Given in response to questions, the accused was not obligated to answer.
- Made without proper warning about the right to remain silent or potential use as evidence.

[5] Bharatiya Sakshya Adhiniyam 2023, ss 22–24.

[6] *Kashmira Singh v State of Madhya Pradesh* AIR 1952 SC 159

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Conditions:

First condition deals with subject matter of the inducement, threat or promise. It must have reference to the charge. The crucial word in this ingredient is the expression "appears". The appropriate meaning of the word "appears" is "seems".7

It imports less probability than proof. Even so, the laxity of proof permitted does not warrant a court's opinion based on pure inference. A prima facie opinion based on evidence and circumstances may be adopted as the standard laid down. This deviation from the normal standard of proof has been designedly accepted by the Legislature with a view to excluding forced or induced confessions which sometimes are extorted and put in when there is a lack of direct evidence.

Secondly, the threat, inducement or promise must proceed from a person in authority. It is a question of fact in each case whether the person concerned is a person of authority or not.8

Thirdly, the mere existence of the threat, inducement or promise is not enough, but, in the opinion of the court, the threat, inducement or promise should be sufficient to cause a reasonable belief in the mind of the accused that by confessing he would get an advantage or avoid any evil of a temporal nature in reference to the proceedings against him: while the opinion is that of the Court, the criterion is the reasonable belief of the accused.

Burden of proof u/s.22 (1)

The terms in which section 22 (1) is couched, seem to indicate that in the case of an ordinary confession, there is no initial burden on the prosecution to make out the negative, viz., that the confession sought to be proved or admitted is no vitiated by the circumstances stated in the section. However, where the suspicion of the Court is aroused, the standard of proof required to render it irrelevant is indicated by the word "appears" and not by the usual word "proved". Subject to this, the burden of proving that the confession is involuntary is on the accused, though the burden is light.9

Inducement having reference to charge:

One of the conditions of the applicability of section 22 (1) is that the inducement, threat or promise should persuade the accused that he would gain an advantage or avoid any evil in "reference to the proceeding against him." If pressure is put upon an accused person which affects his freedom of will, such pressure is a ground for making the confession inadmissible even where the threat is of harm otherwise than in relation to the proceeding.

In the case of Palvinder Kaur Vs. State of Punjab 1952 AIR 354, the Supreme Court approved the Privy Council decision in Pakala Narayan Swami case over two scores. To begin with, confession is described as either admitting guilt in terms or admitting substantially all of the facts that constitute the offence. Second, a jumbled statement, even though it includes some confessional statements, would always result in acquittal, is not a confession. As a result, a statement containing self-exculpatory information that, if valid, would negate the issue or offence, cannot amount to confession.10

In Pyare Lal Vs. State of Rajasthan 1963 AIR 1094, the Supreme Court, In this case, the Court determined that a withdrawn confession has sufficient validity to provide all other legal basis for conviction only if the Court is satisfied that it was valid and made of someone's own volition. However, the Court must testify that convictions cannot be based solely on confessions unless and unless they are corroborated.

III. TYPES OF CONFESSION

- **Judicial Confession**: Made before a magistrate or in court, recorded under Section 183 of BNSS. Highly reliable due to judicial oversight.

[7] *Queen-Empress v Babu Lal* (1884) ILR 6 All 509
[8] *Shankaria v State of Rajasthan* (1978) 3 SCC 435
[9] *R v Thompson* (1893) 2 QB 12
[10] *Palvinder Kaur v State of Punjab* AIR 1952 SC 354

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Formal confession is also known as Judicial Confession, and it refers to claims made before a judge or in a court of law during a criminal proceeding. A judicial confession is nothing more than a "plea of guilty" as specified by Article 20 (3) of the Indian Constitution; otherwise, any confession made against the person making the confession has no evidentiary value, and he cannot be found guilty of any crime on the basis of such confession.

Since section 183 of BNSS empowers magistrates to record confessions, it is not important to know which magistrate recorded the confession unless he is prohibited from doing so. As a result, in order to raise the presumption, the accused's identity must be clear and proven in the confession in order to persecute him for the crime he committed

In, State of Punjab Vs. Bhagwan Singh 1992 AIR 1689 the Supreme Court in this case held that the validity of an extrajudicial confession increases only if it is clearly compatible and persuasive with the case's conclusion; otherwise, the accused cannot be held responsible for his guilt solely on the grounds of his confession.

- **Extra-Judicial Confession:** Made outside court to any person. Admissibility depends on voluntariness and corroboration.

  Informal or Extrajudicial confession refers to claims made outside of a court or in the absence of a judge. Informal confession can be made in the form of prayer, in any private space, or in a self-conversation. However, the court must ensure that the accused's confession, whether judicial or extrajudicial, is consistent with Article 20 (3) of the Indian Constitution, which states that ""No person accused of any offence shall be compelled to be a witness against himself - Self incrimination. [11]This means that the confession must be made freely and truthfully, and only then may a person be charged with a crime. Extrajudicial confession occurs when a person confesses his guilt of the crime he committed to a private person, such as a friend or a family member.

  In, Sahadevan Vs. State of Tamil Nadu the Supreme Court while deciding the case has made few principles in the form of guidelines where the court has to check such principles before admitting the confession of the accused. The following principles mentioned by the Supreme Court are:

  - Extrajudicial confessions are typically a very poor type of evidence on their own, and the court must thoroughly scrutinize such claims.
  - Extrajudicial confessions should be made with one's own free will and must be truthful.
  - When extrajudicial confessions are backed up with other facts, their evidentiary value skyrockets.
  - The statements of the confessor must prove his guilt like any other fact in issue is proven in the judicial proceedings.
- **Co-Accused's Confession**: One accused implicating others in joint trials. Admissible if corroborated.

When there are more than one accused in a case and they are jointly prosecuted for the same offence, and when any of them confesses any statements against himself in such a way that he may be proved guilty of that offence then the court on such believes may prosecute other accused also who are jointly persecuted in the same offence.

Illustration If three persons Aman, Vinod and Vijay are charged jointly for the same offence and they are prosecuted for the murder of Harsh. And during the judicial proceedings, Aman gives confessions that he along with Vinod and Vijay killed Harsh and if the statements of the Aman are recognised as true statements then the court may use the confession of Aman against all the accused and can prove the guilt of Vinod and Vijay also.[12]

[11] *State of Bombay v Kathi Kalu Oghad* AIR 1961 SC 1808.

[12] *Haricharan Kurmi v State of Bihar* AIR 1964 SC 1184.

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The Hon'ble Supreme Court in the case of Pancho Vs. State of Haryana 2011 AIR, held that the confession of co-accused has no evidentiary value and cannot be regarded as a substantial piece of evidence. As a result, the co-accused's confession can only be used to bolster the inference reached based on other facts.

Retracted Confession: Initially made but later withdrawn. Requires careful analysis of voluntariness and corroboration.

The concept of retraction in English is "the action of drawing back something." Retraction confession is a form of confession in which the confessor makes a voluntary confession then reversed or If it is substantiated by other retracted by the same confessor. independent and corroborative facts, a retracted confession may be used against the individual who is confessing any retracted statements.

Supreme Court of India, Subramania Goundan v. State of Madras (1958)A retracted confession can still be relied upon, but the court ordinarily looks for corroboration before acting upon it, particularly where the confession is the basis of conviction.

IV. CONFESSION UNDER THE BHARATIYA SAKSHYA ADHINIYAM

Section 23 (1) Confessions to Police Officers Not Admissible

Confessions made to police officers are not admissible in court. The primary rationale behind this rule is to safeguard against the potential for coercion, duress, or abuse that an accused person might face when dealing with law enforcement.13This section creates an absolute bar against the admission of such confessions.

This rule serves a critical purpose in the Indian criminal justice system. It helps protect the rights of accused individuals by ensuring that they are not compelled to confess to a crime under undue pressure or intimidation from the police.

It is worth noting that Section 23 (1) applies not only to confessions made during police custody but also to any statements given to a police officer during the course of an investigation, irrespective of where they are made.

In the case of State of Bombay Vs. Kathi Kalu Oghad, the Hon'ble Supreme Court of India examined the admissibility of a confession obtained by the police. The court held that a confession made to the police is inadmissible and explained that confessions made to the police are more likely to be tainted by fear or intimidation.

Section 23 (2) - Confessions to Magistrates Admissible

In contrast to the general inadmissibility of confessions to police officers, Section 23 (2) of the Adhiniyam allows confessions made to a magistrate to be admissible in court.14 This section provides that no confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person. The Explanation to the section, provides that "Magistrate" does not include the head of a village discharging magisterial functions, unless such headman is a Magistrate exercising the powers of a Magistrate, under BNSS.

However, it sets out specific conditions that must be met for such confessions to be admissible :-

- **Confession Must Be Made to a Magistrate**
  The confession should be made before a magistrate and in the presence of a magistrate. This is a fundamental requirement, as the magistrate's role is seen as a safeguard against coercion and intimidation.
- **Adequate Caution and Advisement**
  The magistrate must also exercise caution and deliberation. This involves making the accused aware of their legal rights and the consequences of making a confession. The accused person should be fully aware of the implications of their confession. This deliberation process further contributes to ensuring the voluntariness of the confession.15

[13] *Aghnoo Nagesia v State of Bihar* AIR 1966 SC 119
[14] Bharatiya Sakshya Adhiniyam, 2023, § 23(2), Act No. 47 of 2023.
[15] Ibid., § 183(2).

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- **Voluntariness of Confession**
  The core criterion for the admissibility of any confession, whether made to a magistrate or not, is its voluntariness. This means that a confession must be given freely and without any undue influence, inducement, threat, or promise.

The Adhiniyam clearly specifies that a confession is admissible if it is voluntary. It is essential to determine whether the confession was made by the accused of his own free will or if it was extracted through pressure or improper influence. If a confession is found to be coerced or made under duress, it is inadmissible.

The onus of proving the voluntariness of a confession rests on the prosecution. In other words, it is the prosecution's responsibility to demonstrate that the confession was made voluntarily.

V. COMPARATIVE FRAMEWORK ACROSS MAJOR JURISDICTIONS

1. India (Statutory & Public-Policy Exclusion)

- Governing Framework: Governed by the Indian Evidence Act, 1872 (and transitioned into equivalent provisions under the Bharatiya Sakshya Adhiniyam, 2023) alongside Code of Criminal Procedure (CrPC) / Bharatiya Nagarik Suraksha Sanhita (BNSS) rules
- Relevancy Test (Section 24 / BSA): A confession is irrelevant if it is induced by coercion, threat, promise, or inducement proceeding from a person in authority.
- Total Prohibition on Police Confessions (Sections 25 & 26): Unlike many Western systems, confessions made directly to a police officer or while in police custody (unless recorded immediately by a Judicial Magistrate under Section 164) are strictly inadmissible.
- The "Discovery" Exception (Section 27): Information received from an accused in custody is relevant only to the extent that it leads to the distinct recovery of a physical fact or material object
- Judicial vs. Extra-Judicial: Judicial confessions recorded by a magistrate carry high weight and can form the sole basis of a conviction if voluntary. Extra-judicial confessions (made to private individuals) are viewed with suspicion and typically require independent corroboration[16]

2. United States (Constitutional & Due Process Approach)

- Governing Framework: Rooted in the U.S. Constitution (Fifth Amendment privilege against self-incrimination, Sixth Amendment right to counsel, and Fourteenth Amendment Due Process Clause) and federal/state rules of evidence.
- Admissibility of Police Confessions: Unlike India, police-obtained confessions are admissible provided they pass constitutional muster.[17]
- The Miranda Safeguards (Miranda v. Arizona): Custodial interrogations require law enforcement to issue explicit warnings regarding the right to remain silent and the right to an attorney.[18]
- Voluntariness & The Totality of Circumstances: Courts evaluate whether a statement was the product of a free and unconstrained choice by examining the "totality of the circumstances" (including police tactics, psychological pressure, and the suspect's personal characteristics)
- Exclusionary Rule / Fruit of the Poisonous Tree: If a confession is obtained in violation of constitutional rights, the statement—and often derivative evidence tainted by the illegality is barred from trial.

3. England & Wales (Statutory & Reliability Focus)

- Governing Framework: Governed historically by common law and codified under the Police and Criminal

[16] *State of U.P. v. Singhara Singh*, AIR 1964 SC 358;
[17] *Brown v. Mississippi*, 297 U.S. 278, 285–86 (1936)
[18] *Miranda v. Arizona*, 384 U.S. 436, 444, 478–79 (1966)

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Evidence Act 1984 (PACE) (specifically Section 76).[19]

- Exclusion for Oppression or Unreliability (PACE Section 76): A confession made by an accused is inadmissible if it was obtained by oppression (torture, inhuman, or degrading treatment, or the use or threat of violence) or in circumstances that render it unreliable.
- Code of Practice: Police questioning is heavily regulated by PACE codes, and breaches of procedural fairness can lead the court to exercise its discretion to exclude confession evidence if admission would have an adverse effect on the fairness of the proceedings (under Section 78 of PACE).
- Corroboration & Weight: English law does not impose an absolute statutory ban on police confessions (unlike Indian law), instead shifting the focus to a judicial assessment of whether the confession's integrity and reliability were compromised during detention.[20]

VI. DIFFERENCE BETWEEN CONFESSION AND ADMISSIONS

SR .NO	ADMISSIONS	CONFESSION
1	An admission is a statement made by a party to a case (either a plaintiff or defendant) that is against their own interest in the case. It can be either oral or in writing.	A confession is a specific type of admission, typically related to criminal cases. It is a statement in which a person admits to having committed a crime.
2	Admissions can be used as evidence against the party who made the admission.	A confession can be used to establish the guilt of the accused.
3	Admissions may be voluntary or involuntary, and they can be used to establish the truth of certain facts.	To be admissible in court, a confession must be made voluntarily, without coercion, duress, or inducement. If a confession is obtained through improper means, it may be considered inadmissible.
4	Admissions are not limited to criminal cases and can occur in civil cases as well.	The Adhiniyam contains provisions (Sections 22 to 24) that govern the admissibility of confessions in criminal cases.
5	Admissions may be operated as estoppels because they are not conclusive as to the facts admitted by the person who in his statement admit some facts.	If the confessions are purposefully and are made on someone's own will then it may be accepted as conclusive of the facts confessed by the confessor.
6	Admissions may be used with respect to the person who has admitted any facts or statements under the exception of Section 19 of the Adhiniyam.	Confessions are always used or go against the confessor of the statements.
7	As it is previously observed that admission cannot be used against the person who is admitting the facts by any statements as they don't have much probative evidentiary value. Hence the admission made by the different personalities of the same suit cannot be used as evidence against other persons	Confessions confessed by more than one person jointly for the same offence can be considered against other accused of the same crime under Section 24 of the Adhiniyam.

[19] Police and Criminal Evidence Act 1984, c. 60, §§ 76, 78

[20] See *R v Fulling* [1987] QB 426; *R v Mushtaq* [2005] UKHL 25, [2005] 1 WLR 1513

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VII. CONCLUSION

The Bharatiya Sakshya Adhiniyam, reinforces confession law by codifying precedents and emphasizing voluntariness in line with constitutional principles. While it provides strong procedural safeguards, challenges remain in implementation, including custodial coercion and inconsistent handling of retracted confessions. Effective implementation requires police training, judicial consistency, and public awareness of rights. A confession is generally understood as an admission made by an accused person suggesting an inference as to his or her involvement in the commission of an offence. Since a confession may have a direct bearing on the determination of guilt, the law carefully regulates the circumstances in which such a statement can be considered relevant and admissible in evidence. Thus, the provisions relating to confession under the BSA demonstrate the fundamental principle that justice must be achieved through lawful and reliable evidence. The law seeks to prevent convictions based upon statements obtained by unfair or coercive methods while allowing genuine and voluntary admissions to have appropriate evidentiary value. Therefore, the relevancy of confession under the BSA represents a balance between the effective investigation and prosecution of offences on one hand and the protection of the rights and liberty of the accused on the other. Ultimately, a confession is not merely relevant because it contains an admission by an accused. Its legal significance depends upon the circumstances in which it was made, the statutory requirements governing its admissibility, and the extent to which it is supported by the other evidence on record. The provisions of the BSA consequently ensure that confession remains a useful evidentiary tool while preventing its misuse and safeguarding the principles of a fair criminal trial.

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