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CASE COMMENTARY AGHNOO NAGESIA VS STATE OF BIHAR 1966 AIR 119

AUTHORS: DIVYANSHI KHEMKA, SMRITI SINGH
& BHAVYA SINGH

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CASE LAWS

1. Palvinder Kaur v. State of Punjab 1952 AIR 354
2. Pakala Narayanaswami v. The King Emperor (1939) 41 BOMLR 428
3. State of U.P. v. Deoman Upadhyaya 1960 AIR 1125

STATUTES

1. Indian Evidence Act, 1872
2. Code of Criminal Procedure, 1973

FACTS

- Aghnoo Nagesia, the appellant, is accused of killing his aunt Ratni, her daughter Chamin, her son-in-law Somra, and Somra's son Dilu over a property dispute.
- A personally reported the murder in an FIR at the Palkot Police Station, where he provided certain damning details that led to the finding of the bodies and the murder weapon.
- However, there were no witnesses. The FIR report, which reportedly contained the appellant's full confession of guilt, was the sole major piece of evidence used against A.
- The Chotanagpur Judicial Commissioner regarded A's FIR statement as a confession and found him guilty. In an appeal, the Patna High Court upheld both the conviction and the death sentence.
- As a result, A requested special leave to petition the Supreme Court.

FACT IN ISSUE

The question before the court was whether or not Section 25 of the Indian Evidence Act, 1872 applied to the entirety of A's statement, prohibiting it from being used as evidence, or only those parts that dealt with

A's admission of actually committing the crime.

CONTENTIONS

It is argued that the entire statement is a confession made to a police official and cannot be used against the appellant, according to S. 25 of the Indian Evidence Act, 1872, One of the legal provisions addressing an accused person's confessions is Section 25 of the Evidence Act. The Evidence Act's sections 24 to 30 and the Code of Criminal Procedure's sections 162 and 164 basically include the law governing confessions. The "Admissions" section of the Evidence Act is where you'll find Sections 17 to 31. A type of admission, confession is covered in ss. 24 to 30. Unless its admissibility is prohibited by a legal rule, a confession or an admission constitutes evidence against the maker. Section 24 disallows confessions obtained using specific coercion, threats, or promises. [Section 25](#) provides: "No confession made to a police officer, shall be proved as against a person accused of an offence." The provisions of s. 25 must be followed. Under no circumstances is a confession made to a police officer admissible as evidence against the accused. It covers both a confession made while he was free and not in the custody of the police as well as a confession made prior to the start of any investigation. Whether or not a person was charged with an offence when he made the confession, the phrase "accused of any offence" refers to everyone who was charged with an offence at the trial. Except when made in the immediate presence of a Magistrate, Section 26 forbids the use of a confession that a person makes while in the custody of a police officer as evidence against them.

LEGAL PROVISIONS INVOLVED

- **Section 24- Confession caused by inducement, threat or promise, when irrelevant in criminal proceedings.**

A confession made by an accused person is irrelevant in a criminal proceeding if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

- **Section 25- Confession to police officer not to be proved.**

No confession made to a police officer shall be proved as against a person accused of any offence.

- **Section 26- Confession by the accused while in custody of Police not to be proved against him.**

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.

- **Section 27- How much of information received from the accused, may be proved.**

Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

IMPORTANT LEGAL PROVISIONS ENTRENCHED IN THE CASE:

- **What is a confession?**

The Indian Evidence Act of 1872 doesn't define the word "confession" anywhere. The Supreme Court had already endorsed this definition in the case of *Palvinder Kaur v. State of Punjab*¹, but the Court chose to follow it in *Pakala Narayanaswami v. The King Emperor*².

Lord Atkin's definition was as follows:

"...no statement that contains self-exculpatory matter can amount to confession, if the exculpatory statement is of some fact which if true would negative the offence alleged to be confessed. Moreover, a confession must either admit in terms of the offence, or at any rate substantially all the facts which constitute the offence. An admission of a gravely incriminating fact, even a conclusively incriminating fact, is not of itself a confession, e.g., an admission that the accused is the owner of and was in recent possession of the knife or revolver which caused death with no explanation of any other man's possession."

In *State of U.P. v. Deoman Upadhyaya*³, the court likewise agreed with Justice Shah's definition of a confession as a statement made by a person inferring or declaring that they have committed a crime.

- **Does the FIR that the accused filed with the police, in which he confessed to committing the crime, count as a confession and serve as evidence of the accused's guilt?**

No. The first information report is a confessional statement made by the accused to a police officer; Section 25 forbids proving a confession.

- **Does only the incriminating portion of a statement that a person makes against himself qualify as a confession, or will the entire statement be viewed as a confession if it contains both exculpatory and incriminating statements?**

The court held that all confessional comments, including those that are both incriminatory and exculpatory, must be taken into account. It would be unfair to the accused to only take into account the incriminating evidence and ignore the exculpatory evidence. The entire confessional statement, including the admissions of minor incriminating facts, must be excluded if the proof of the confession is prohibited by any legal provision, such as Sections 24, 25, and 26 of the Indian Evidence Act of 1872, with the exception of those parts that may be proven under another legal provision, such as Section 27 of the Evidence Act, 1872.

The court held that:

¹ 1952 AIR 354

² (1939) 41 BOMLR 428

³ 1960 AIR 1125

A statement which contains self-exculpatory matter cannot amount to a confession, if the exculpatory statement is of some fact which, if true, would negative the offence alleged to be confessed. If an admission of an accused is to be used against him, the whole of it should be tendered in evidence, and if part of the admission is exculpatory and part inculpatory, the prosecution is not at liberty to use in evidence the inculpatory part only. The accused is entitled to insist that the entire admission including the exculpatory part must be tendered in evidence.

The confession is tainted, the taint attaches to each part of it. It is not permissible in law to separate one part and to admit it in evidence as a non-confessional statement. Each part discloses some incriminating fact, i.e., some fact which by itself or along with other admitted or proved facts suggests the inference that the accused committed the crime, and though each part taken singly may not amount to a confession, each of them being part of a confessional statement partakes of the character of a confession. If a statement contains an admission of an offence, not only that admission but also every other admission of an incriminating fact contained in the statement is part of the confession.

- **Does the Indian Evidence Act, 1872's Section 24 prohibit merely confessions of having committed an offence, or does it also prohibit the admission of any remark that can be construed as incriminating?**

Only those portions of the confession covered by Sections 24, 25, or 26 and allowed to be used as evidence by Section 27 may be presented. According to Section 27, the Court may accept any information that clearly results in the discovery of a fact as a result of the information, regardless of whether it amounts to a confession or not, as evidence.

The court stated that:

Proof of not only the admission of the offence but also the admission of every other incriminating fact such as the motive, the preparation and the subsequent conduct is excluded by S. 24. To hold that the proof of the admission of other incriminating facts is not barred by S. 24 is to rob the section of its practical utility-and content.

- **Is it necessary for the accused to be in police custody in order for Section 27 of the Indian Evidence Act, 1872 to be applied? Can information given to the police by the accused when they are not in jail fall under Section 27's purview?**

In theory, absolutely. When the accused provided the information while in the police's custody, Section 27 is applicable. However, in some circumstances where the accused is not in police custody, his testimony may be admitted into evidence in accordance with Section 27 if it can be demonstrated that the police had constructive custody of the accused.

In the matter at hand, the Court considered whether an accused would be considered to have submitted himself to the custody of the police officer within the meaning of Section 27 if he provided direct information to the police officer while filing the FIR, which may be used as evidence against him.

JUDGMENT

- The Supreme Court held that the confession offered by the accused to a police officer in the FIR report is banned by Section 25 of the Indian Evidence Act and cannot be used as evidence.
- Confessions are divided into sections and may show not only the commission of the crime but also incriminating aspects such as motive, preparation, opportunity, provocation, the weapon used, purpose, concealment of the weapon, and subsequent behaviour of the accused.
- The court also referred to Section 27 of the Indian Evidence Act, which governs how much information obtained by the accused can be proven (DISCOVERY STATEMENTS–This is an exception to the general rule as Discovery Statements can be admissible in evidence taken only from confessional statements).
- The court held that the accused could not be convicted solely on a confessional statement provided to police and that it could not be accepted in evidence alone because the only thing shown was that the accused knew where the dead bodies and weapons were. As a result, he may be either innocent or guilty.
- As a result, the confessional statement must be supported by other proof.
- When there are two plausible interpretations of the evidence, the one that favours the accused should be adopted. As a result, the accused was found not guilty of murder.
- High Court- The High Court accepted and rejected the case in part. Parts 6, 9, 11, 12, and 14 were rejected by the High Court. The Supreme Court found him guilty.
- Supreme Court - According to the Supreme Court, "save for Parts 1, 15, and 18 identifying the appellant as the creator of the first information report, and except for the sections falling within the scope of Section 27, the complete first information report shall be omitted from evidence."

The courts ruled that the seizure of bodies, an axe, and a blood-stained sheet are all relevant under Section 27 of the Act.

However, this evidence is insufficient to condemn Aghanoo Nagesia. As a result, he was acquitted. (The criminal accusation of murder was dropped.)

ANALYSIS

A confession may now be divided into sections that indicate not only the actual performance of the crime but also the motive, preparation, opportunity, provocation, weapons used, intention, hiding of the weapon, and subsequent behaviour of the accused. Damaging fact, that is, any truth that, by itself or in conjunction with other recognised or proven facts, if the confession is contaminated, the taint pervades every aspect of it. In law, it is not admissible to detach one component and introduce it as evidence as a non-confessional declaration. Each part discloses some proven facts that suggest the accused committed the crime, and while each part alone may not amount to a confession, each part as part of a confessional statement has the character of a confession. If a statement contains an admission of an offence, the confession includes not only that admission but also every other acknowledgement of an incriminating fact contained in the statement. 14. If proof of the confession is prohibited by law, such as Sections 24, 25, and 26 of the Evidence Act, the entire confessional statement, including admissions of minor incriminating facts, must also be prohibited, unless proof is permitted by another section, such as Section 27 of the Evidence Act. If proof of admissions of damaging facts in a confessional statement is permissible, S. 24, 25, and 26 would be devoid of substance and content.

CONCLUSION

Given the power imbalance between the State and the accused, Section 25 provides significant protection to the accused. In the absence of such safeguards, an innocent person may be convicted of a crime he did not commit.