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POLICE STATEMENTS AND RESTRICTIONS ON THEIR USE DURING TRIAL

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1.ABSTRACT:

Police statements are important investigative materials, but they are not automatically substantive evidence during a criminal trial. This article examines the legal restrictions governing statements recorded by police, their limited use for contradiction, the restrictions on police confessions, and the discovery exception. It analyses the current framework under the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023, while explaining the continuing value of leading decisions delivered under the earlier criminal laws. The article argues that police statements may assist investigation, but they cannot replace evidence tested through examination and cross-examination. Strict procedural compliance protects both the integrity of the investigation and the accused's right to a fair trial.

Keywords: Police statements; criminal trial; contradiction; confession; discovery; BNSS; evidence; fair trial.

2. INTRODUCTION

During criminal investigation, police officers examine persons who may be acquainted with the facts and circumstances of an offence. Statements recorded during this process help investigators identify witnesses, understand the allegations, locate material objects, and decide whether a prosecution should be initiated. The investigative value of such statements is significant, but it does not make them equivalent to testimony given before a court.

Investigation and trial have different functions. Investigation is directed towards collecting information and materials. Trial is directed towards determining guilt or innocence through legally admissible evidence. A witness who gives a statement to the police must ordinarily appear before the court and give evidence on oath. That evidence may then be tested through cross-examination. Treating an untested police record as proof would weaken this essential

distinction.

The restrictions on police statements therefore operate as safeguards. They reduce the danger of inaccurate recording, coercion, tutoring, selective transcription, and misuse of investigation records. This article studies the legal position and the limited purposes for which such statements may be used during trial.

3. RESEARCH QUESTIONS AND OBJECTIVES

This article asks whether a police statement can be used as substantive evidence, how a previous statement can contradict a witness, what restrictions apply to police confessions, and how constitutional safeguards control the use of investigation material. Its objectives are to explain the current statutory framework, analyse relevant case law, distinguish material contradictions from minor variations, and suggest safeguards for fair criminal adjudication.

4. RESEARCH METHODOLOGY

The article follows a doctrinal and library-based method. It relies on legislation, constitutional provisions, reported Supreme Court decisions, standard legal commentaries, and academic legal material. It does not use interviews or empirical data. The focus is on statutory interpretation and judicial reasoning concerning statements made during criminal investigation.

5. STATUTORY FRAMEWORK

The provisions relating to police examination of witnesses and statements to police correspond substantially to the earlier Sections 161 and 162 of the Code of Criminal Procedure.

A police officer conducting an investigation may orally examine a person believed to be acquainted with the facts and circumstances of the case. The person must answer relevant questions, except questions whose answers may expose that person to a criminal charge, penalty, or forfeiture. The officer may reduce the statement into writing, and audio-video recording is recognised in specified situations.

A written statement made to the police during investigation is not required to be signed by the person making it. Such a statement cannot ordinarily be used for any purpose at an inquiry or trial except in the limited manner permitted by law. Its main trial-stage use is to contradict a witness. The Bharatiya Sakshya Adhiniyam, 2023 is the current general law of evidence; older decisions must be read alongside the corresponding provisions of the new enactments.

6. POLICE STATEMENTS ARE NOT SUBSTANTIVE EVIDENCE

A police statement is not substantive evidence because it cannot ordinarily be used to prove the truth of every fact contained in it. Substantive evidence is evidence which the court can rely upon to establish a fact in issue. A statement recorded by an investigating officer is created during investigation and is not made on oath before the trial court.

The witness must ordinarily give evidence before the court. The court can then assess the witness's demeanour, consistency, credibility, and response to cross-examination. If an investigation statement were treated as direct proof, the accused would be deprived of the opportunity to test the maker of the statement in the ordinary manner.

The Supreme Court in **Tahsildar Singh v State of Uttar Pradesh**¹ explained the principles governing contradictions and omissions in previous statements. A contradiction must be material and must be properly established. It cannot be created merely by comparing isolated words without examining the context of the testimony.

7. CONTRADICTION OF WITNESSES

The principal permitted use of a police statement is to contradict a witness. A contradiction arises when the earlier statement and the statement made in court are materially inconsistent. Minor differences caused by memory, language, or ordinary observation do not automatically destroy credibility.

The proper procedure has four stages. First, the witness must be confronted with the exact portion of the earlier statement relied upon. A general suggestion that the witness gave a different version is insufficient. Secondly, the witness must be given an opportunity to admit, deny, or explain the alleged contradiction. Thirdly, if the witness denies making the statement, the investigating officer may be called to prove that the relevant portion was recorded. Finally, the relevant portion must be properly identified and marked by the court.

In **V.K. Mishra v State of Uttarakhand**² the Supreme Court emphasised that a witness must be confronted with the relevant part of the previous statement and that the prescribed procedure must be followed.

In **State of U.P. v M.K. Anthony**³, the Court held that evidence should be read as a whole and that minor discrepancies which do not affect the core of the case should not be treated as material contradictions.

¹ Tahsildar Singh v State of Uttar Pradesh AIR 1959 SC 1012

² V.K. Mishra v State of Uttarakhand, (2015) 9 SCC 588

³ State of U.P. v M.K. Anthony, (1985) 1 SCC 505.

In **State of Rajasthan v Kalki**,⁴ the Supreme Court distinguished material contradictions from normal discrepancies arising from human observation and memory. decisions show that the purpose of the rule is not to punish every imperfect recollection, but to prevent unproved or material changes from being used unfairly.

8. CONFESSIONS TO POLICE AND DISCOVERY

A confession is a statement by which a person admits or suggests that he or she committed an offence. The law imposes strict restrictions on confessions made to police officers or while a person is in police custody. The reason is that custodial conditions may involve pressure, threat, inducement, or coercion.

Article 20(3) of the Constitution protects an accused from compelled self-incrimination. The statutory restriction on police confessions supports this constitutional protection. A confession made directly to a police officer is generally inadmissible against the accused, subject to limited statutory exceptions.

The discovery principle is narrow. If information supplied by an accused leads to the discovery of a fact, only the portion distinctly connected with the discovered fact may be considered. The entire statement does not become admissible merely because an object is recovered.

In **Pulukuri Kottaya v King Emperor**⁵ the Privy Council explained that the admissible portion must have a direct and clear connection with the fact discovered.

In **Aghnoo Nagesia v State of Bihar**,⁶ the Supreme Court considered the restriction on a confessional First Information Report made to a police officer and reaffirmed the importance of the statutory bar on police confessions. [Footnote 6:.] The prosecution must therefore separate the discovered fact from unrelated confession or narrative.

9. CONSTITUTIONAL SAFEGUARDS AND PRACTICAL PROBLEMS

While Article 21 mandates a fair, equitable, and reasonable process, Article 20(3) forbids forced self-incrimination. The accused must be given a significant chance to contest the prosecution's evidence in order to have a fair trial. It would be detrimental to treat an untested police record as definitive evidence.

Fear, pressure, manipulation, memory loss, or other factors can induce witnesses to alter their account. A prior statement might help the court evaluate credibility, but it can't immediately

⁴ State of Rajasthan v Kalki, (1981) 2 SCC 752.

⁵ Pulukuri Kottaya v King Emperor, AIR 1947 PC 67.

⁶ Aghnoo Nagesia v State of Bihar, AIR 1966 SC 119

fix every flaw in the prosecution's case. A significant contradiction must be distinguished by courts from a little omission.

Although audio-video recording increases transparency, it does not eliminate the requirement for authenticity, completeness, safe archiving, and the ability to question the recording. Investigating police must keep accurate records, and trial judges must explicitly specify whether a statement is being utilized for contradiction, discovery, or another legally permissible reason.

10.CRITICAL ANALYSIS OF THE PRESENT POSITION

The constraints on police comments reflect the notion that investigation material and trial evidence should not be viewed as interchangeable. A police statement may help the investigating officer develop the case, but its evidence value is determined by the purpose for which it is presented and the court's procedure.

This distinction is especially important when a witness gives a contradictory account during trial. The court should not assume that every difference is a deliberate contradiction. It must determine whether the difference affects a material fact, the accused's identity, the commission of the offense, or an important aspect of the prosecution's story. At the same time, procedural safeguards should not preclude the court from considering credible evidence. The correct approach is to strike a balance between the accused's rights and the legitimate needs of criminal prosecution.

Proper recording, timely disclosure, accurate identification of contradictory portions, and effective cross-examination can all contribute to this balance. The transition from earlier criminal laws to the BNSS and Bharatiya Sakshya Adhiniyam emphasizes the importance of careful statutory interpretation. Courts and lawyers must avoid using outdated section numbers without identifying the corresponding current provisions

11.DIFFERENCE BETWEEN CONTRADICTION AND CORROBORATION

A previous police statement is mainly used to test the consistency of a witness. It cannot normally be used to corroborate the truth of every fact stated by the witness. Contradiction means showing that the witness has made two materially different statements at different stages of the proceedings. Corroboration, on the other hand, means supporting the evidence given by a witness through independent and legally admissible material.

This distinction is important because a police statement is recorded during investigation and is

not given on oath before the trial court. Therefore, the statement cannot be treated as an independent source of proof. It may show that the witness's present version is inconsistent with the earlier version, but the prosecution must still establish its case through admissible evidence produced during trial.

The court must also consider whether the alleged contradiction is material. A minor omission or difference in wording may result from lapse of memory and should not automatically be treated as a reason to reject the entire testimony. Only contradictions affecting important facts should receive serious consideration.

12. SUGGESTIONS

- Police statements should be recorded accurately and separately for each witness.
- Courts should identify the exact portion relied upon for contradiction.
- The witness should receive a fair opportunity to explain the alleged contradiction.
- The investigating officer should prove the relevant portion where necessary.
- Material contradictions should be distinguished from minor omissions and normal variations.
- The discovery exception should be limited to information distinctly connected with the fact discovered.
- Audio-video records should be preserved with safeguards for authenticity and integrity.
- Judgments should clearly state the purpose for which a previous statement is used.

13. CONCLUSION

Police statements are important investigative tools, but their importance does not make them substantive evidence at trial. Their principal permitted use is to contradict a witness through a precise and properly proved procedure. Confessions to police officers and custodial statements receive stricter treatment, while the discovery exception applies only to the portion distinctly relating to the fact discovered.

These restrictions are not obstacles to justice. They protect the reliability of the trial process and prevent investigation records from replacing evidence tested through examination and cross-examination. The correct balance is to permit police statements to assist investigation while ensuring that conviction is based on legally admissible and properly tested evidence.