

Distinction Between Admission And Confession: A Legal Analysis

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Abstract: *The distinction between admission and confession constitutes one of the more consequential — and frequently misunderstood — dichotomies in the Indian law of evidence. Although both concepts involve a party's own statement being adduced against that party, they operate within fundamentally different legal frameworks, attract divergent rules of admissibility, and carry vastly unequal probative weight. An admission, broadly conceived, is any statement — whether oral, written, or electronic — that concedes a fact in issue or a fact relevant thereto; a confession, by contrast, is a direct acknowledgement of guilt that strikes at the very foundation of a criminal charge. Despite this conceptual clarity in theory, the jurisprudential boundaries between the two have been blurred in practice by inconsistent statutory drafting, the absence of a statutory definition of 'confession' in the Indian Evidence Act, 1872, and the divergent approaches adopted by the higher judiciary over more than a century of adjudication. This paper undertakes a rigorous analytical examination of both concepts, tracing their doctrinal roots, mapping their statutory coordinates under the Indian Evidence Act, 1872 and its successor legislation, the Bharatiya Sakshya Adhinyam, 2023 (BSA), and critically engaging with the body of landmark case law that has shaped their operational parameters. The paper argues that the judiciary has, in several important instances, used the two categories interchangeably, producing outcomes that sit uneasily with principles of fairness and the fundamental right against self-incrimination. The analysis also addresses the reforms introduced by the BSA and considers whether those reforms represent a meaningful improvement or merely a legislative restatement of pre-existing doctrine.*

Keywords: Admission, Confession, Indian Evidence Act 1872, Bharatiya Sakshya Adhinyam 2023, Relevancy, Admissibility, Self-Incrimination.

I. INTRODUCTION

Evidence law occupies the operational nucleus of every trial. Without a coherent framework governing what may be received and what weight it should carry, the adjudicative process would descend into an undifferentiated mass of claims and counter-claims. Among the several categories of evidence recognised by Indian law, party admissions and confessions occupy a peculiarly sensitive position: they are statements by the very person whose legal rights and liabilities are at stake, and their reception into evidence implicates values of autonomy, voluntariness, and the privilege against self-incrimination.

The Indian Evidence Act, 1872 — a statute that remained, with modest amendments, the governing legislation in India for over a century and a half — deals with admissions in Sections 17 to 23 and confessions primarily in Sections 24 to 30. The Act's architecture treats admissions as a broad genus and confessions as a specialised species, yet the Act itself never defines 'confession'. This lacuna invited the courts to develop a definitional framework through interpretation, and the resulting jurisprudence, while rich, is not without its internal tensions.

The Bharatiya Sakshya Adhinyam, 2023, which replaced the Indian Evidence Act with effect from 1 July 2024, broadly preserves the structural approach of the parent statute. However, several nuanced modifications — including the express recognition of electronic records and certain procedural safeguards — invite fresh analysis. This paper proceeds by first examining each concept in isolation before undertaking an integrated comparative analysis, and concludes with observations on the practical and theoretical implications of the doctrinal landscape.



II. CONCEPT OF ADMISSION

2.1 Legal Definition and Statutory Framework

Section 17 of the Indian Evidence Act, 1872 defines an admission as 'a statement, oral or documentary or contained in electronic form, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.' Three features of this definition deserve immediate attention. First, the mode of communication is comprehensive — the statute recognises oral statements, documents, and electronic records alike. Second, the standard of significance is suggestive inference, not conclusive proof: an admission need only be capable of supporting an inference regarding a material fact; it need not establish that fact with finality. Third, the identity of the maker matters, and Sections 18 to 20 elaborate on who may make a binding admission.

Under Section 18, an admission may be made by a party to the suit or by an agent authorised in that behalf, by a party who sues or is sued in a representative capacity, by a person whose interest was directly at stake in the subject matter of the litigation, or — in cases involving a third party — by a person from whom the parties to the suit have derived their interest in the subject matter. Section 19 extends the concept to persons whose position must be proved as against any party to the suit, and Section 20 to persons expressly referred to by a party as someone whose statement the party accepts as binding.

An admission, it bears emphasis, is not by itself conclusive. Section 31 clarifies that admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions of the Act. This is a critical qualification: the admission shifts the evidentiary burden and creates an estoppel in appropriate circumstances, but it remains rebuttable.

2.2 Scope and Varieties of Admission

Admissions may be classified along several axes. A formal or judicial admission is one made in the course of pleadings or at trial; it binds the party who makes it for the purposes of that litigation and ordinarily precludes that party from subsequently resiling from it without leave. An informal or extrajudicial admission is made outside the formal litigation process — in correspondence, in conversation, or by conduct — and is admissible as evidence against the maker, though it carries somewhat less probative weight because it was not made under oath or with full appreciation of its legal consequences.

Admissions by conduct — sometimes called implied admissions — present interpretive challenges. Courts have recognised that a party's failure to deny a statement in circumstances where denial would be expected, or a party's fleeing from the scene of a crime, may constitute an implied admission. However, the courts have been appropriately cautious in this area, recognising that silence is susceptible to multiple explanations and that the inference of admission from silence requires careful contextual analysis.

It is also essential to appreciate that admissions may be made in civil as well as criminal proceedings. In civil suits, an admission by a party may greatly simplify the factual issues in dispute and may, in limited circumstances, justify the entry of judgment without a full trial. In criminal matters, a statement that falls short of a confession but nevertheless concedes certain facts can nonetheless be relevant — it may, for instance, place the accused at the scene of the crime without directly acknowledging guilt.

III. CONCEPT OF CONFESSION

3.1 Legal Definition and the Absence of a Statutory Definition

In a manner that has attracted considerable academic comment, the Indian Evidence Act, 1872, while addressing confessions at length, does not define the term. The definitional burden has consequently fallen upon the judiciary. The locus classicus is the Privy Council decision in *Pakala Narayana Swami v. Emperor*, AIR 1939 PC 47, where Lord Atkin articulated the authoritative definition: a confession must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. A statement that contains self-exculpatory matter cannot amount



to a confession if the exculpatory statement is of some substance; however, a statement that is confessional in its cumulative effect does not lose that character merely because it contains some explanation or justification.

Building upon Pakala, the Supreme Court of India has repeatedly affirmed that a confession is an unequivocal acknowledgement of guilt. In *Palvinder Kaur v. State of Punjab*, AIR 1952 SC 354, the Supreme Court held that an exculpatory statement — one that denies guilt or provides justification — cannot be treated as a confession. In that case, the accused had made a statement that contained an inculpatory and an exculpatory part; the Court held that the prosecution could not sever the statement to rely upon the inculpatory part alone, as to do so would distort the true meaning of the statement.

3.2 Classification of Confessions

Confessions are typically classified into three categories: (i) judicial confessions, (ii) extra-judicial confessions, and (iii) confessions to a police officer (which occupy a special and restricted position under Indian law).

A judicial confession is one made before a Magistrate or in the course of a judicial proceeding. Under Section 164 of the Code of Criminal Procedure, 1973 (now Section 183 of the *Bharatiya Nagarik Suraksha Sanhita*, 2023), a Magistrate recording a confession is required to administer certain warnings to the maker and to satisfy himself that the confession is voluntary. A judicial confession, when properly recorded, is strong evidence against the maker.

An extra-judicial confession is one made to a private individual — a friend, a neighbour, or any person other than a police officer or Magistrate. Section 25 of the Indian Evidence Act bars confessions made to police officers from being proved, and Section 26 bars confessions made while in police custody (except before a Magistrate). An extra-judicial confession, by contrast, is admissible provided it was made voluntarily. However, the courts have treated extra-judicial confessions with a degree of scepticism given the ease with which they can be fabricated, and have generally required corroboration before acting upon them.

Confessions made to police officers are the most restricted category. The rationale for their exclusion — well established in the common law tradition and enacted into Indian statute — is the risk of coercion during custodial interrogation. The Third Degree Method, a euphemism for custodial torture, rendered it prudent for the legislature to exclude such confessions entirely, on the ground that their involuntary character could never satisfactorily be established after the fact.

3.3 Voluntariness as the Cornerstone

The admissibility of a confession turns on voluntariness. Section 24 of the Indian Evidence Act renders a confession irrelevant — and therefore inadmissible — if it appears to the court that it was caused by any inducement, threat, or promise having reference to the charge, emanating from a person in authority, and holding out some worldly benefit or that the accused would suffer some evil if he did not make the confession. The section thus establishes a four-part test: (i) the statement must be a confession; (ii) it must have been made to a person in authority; (iii) it must have been made under an inducement, threat, or promise; and (iv) that inducement, threat, or promise must have reference to the charge. All four elements must be established before the court will exclude the confession.

IV. KEY DIFFERENCES BETWEEN ADMISSION AND CONFESSION: AN ANALYTICAL COMPARISON

4.1 Nature and Degree of Acknowledgement

The most fundamental distinction between admission and confession relates to the degree of acknowledgement that each category requires. An admission merely concedes a fact — it need not concede guilt or the commission of a crime. A confession, on the other hand, is a complete acknowledgement of guilt: it must either expressly admit the offence or admit all the essential ingredients of the offence. An accused who admits being at the scene of a murder but denies having committed it is making an admission, not a confession; an accused who admits having struck the fatal blow is confessing.



This distinction has practical implications for the prosecution's strategy. Where the accused has made a statement that is confessional in part and exculpatory in part, the prosecution must generally rely upon the statement as a whole; it cannot cherry-pick the inculpatory portions and ignore the exculpatory ones. Admissions, being of lesser evidential intensity, carry no corresponding restriction.

4.2 Applicability to Civil and Criminal Proceedings

Admissions arise in both civil and criminal proceedings. A party in a civil suit may make admissions that are relevant against that party, and the opposing party may rely upon them to establish facts without calling further witnesses. Confessions, by their very nature, are a creature of criminal law: they are statements acknowledging the commission of a crime and have no direct counterpart in civil litigation. This jurisdictional specificity underscores the criminal law's heightened concern with voluntariness and the presumption of innocence.

4.3 Maker of the Statement

Under the Indian Evidence Act, admissions may be made by a party, by an agent of a party, by a representative party, by a person with a proprietary or pecuniary interest, or by a person expressly referred to. Confessions are made exclusively by the accused — the person charged with the offence. The possibility of a third party's confession binding the accused arises only in the specific circumstance addressed by Section 30 of the Indian Evidence Act (and its counterpart in the BSA), which provides that where more than one person is tried jointly for the same offence, a confession of one of the accused may be taken into consideration against a co-accused. However, this provision has been treated cautiously by the courts and does not transform a third-party confession into substantive evidence against the co-accused.

4.4 Retractability and Evidential Weight

Both admissions and confessions are retractable, but the standards for retraction differ in practical significance. An admission, being a factual concession rather than an acknowledgement of guilt, may in principle be withdrawn with fewer consequences. A confession, once recorded — especially before a Magistrate — is far more difficult to retract convincingly, and the courts have repeatedly held that retraction without a satisfactory explanation goes to weight rather than admissibility. The Supreme Court in *Pyare Lal Bhargava v. State of Rajasthan*, AIR 1963 SC 1094, held that a retracted confession can be acted upon if the court, considering all the circumstances, is satisfied that it was voluntary and true.

4.5 Rules of Admissibility: The Statutory Contrast

The rules governing admissibility mark another area of divergence. An admission made by a party is generally admissible against that party, subject to the exceptions enumerated in the Act (such as admissions made without prejudice in compromise negotiations, excluded by Section 23). Confessions are subject to a more elaborate exclusionary framework: they are inadmissible if caused by inducement, threat, or promise (Section 24); confessions made to police officers are categorically excluded (Section 25); and confessions made in police custody are excluded except when made before a Magistrate (Section 26). The severity of these exclusionary rules — unique in their stringency to the confession category — reflects the law's awareness that confessions occupy the most vulnerable position in the spectrum of self-incriminating statements.

V. RELEVANT STATUTORY PROVISIONS

5.1 Indian Evidence Act, 1872

The provisions governing admissions and confessions in the Indian Evidence Act, 1872 may be identified as follows. Sections 17 to 31 constitute Chapter II of the Act, titled 'Of the Relevancy of Facts', and address admissions. Within this Chapter, Section 17 provides the definition of admission; Sections 18 to 20 identify the persons competent to make



binding admissions; Section 21 addresses the admissibility of admissions made by a party; Section 22 deals with oral admissions as to the contents of documents; Section 22A, inserted in 2000, addresses oral admissions as to electronic records; Section 23 excludes admissions made in civil cases without prejudice; and Section 31 addresses the conclusiveness (or lack thereof) of admissions.

Sections 24 to 30 address confessions. Section 24 provides for the exclusion of confessions caused by inducement, threat, or promise; Section 25 bars proof of confessions to police officers; Section 26 bars proof of confessions made in police custody except when made before a Magistrate; Section 27 carves out a limited exception — the discovery provision — by which so much of a confession as distinctly relates to a fact thereby discovered is admissible; Section 28 provides that a confession made after the removal of the threat or inducement becomes relevant; Section 29 provides that a confession is not made inadmissible merely because it was elicited by a promise of secrecy, deception, or while the accused was drunk; and Section 30 addresses the use of a co-accused's confession against other co-accused persons in a joint trial.

5.2 Bharatiya Sakshya Adhiniyam, 2023 (BSA)

The Bharatiya Sakshya Adhiniyam, 2023 came into force on 1 July 2024, replacing the Indian Evidence Act. The BSA broadly replicates the substantive provisions of the parent Act but incorporates significant structural and linguistic revisions. The provisions on admissions are contained in Sections 15 to 26 of the BSA, corresponding broadly to Sections 17 to 31 of the Indian Evidence Act. Section 15 of the BSA provides the definition of admission in terms substantially identical to Section 17 of the parent Act, with one important modification: the provision now more explicitly incorporates statements in electronic form, consistent with the Act's broader emphasis on digital evidence.

Confessions are addressed in Sections 22 to 25 of the BSA. Section 22 of the BSA substantially reproduces Section 24 of the Indian Evidence Act, providing for the exclusion of confessions caused by inducement, threat, or promise. The prohibition on confessions to police officers is preserved in Section 23 of the BSA, corresponding to Section 25 of the Indian Evidence Act. The discovery provision is retained in Section 24, corresponding to Section 27 of the Indian Evidence Act. Section 25 of the BSA addresses confessions by co-accused persons in joint trials.

Notably, the BSA introduces a provision — Section 23(2) — that enables confessions to be recorded in an audio-visual manner, which is a reform long advocated by legal scholars and law reform commissions as a safeguard against fabrication and coercion. However, critics have noted that the BSA, like its predecessor, does not define 'confession', thereby perpetuating the interpretive gap that has been a source of doctrinal uncertainty.

One important innovation in the BSA is its treatment of electronic records and communications. Section 63 of the BSA expands the rules on secondary evidence for electronic records, and Section 57 provides for a certificate requirement for electronic evidence — a provision that has direct bearing on admissions made in digital communications, such as messages, emails, and social media posts, which may now more readily be admitted in evidence.

VI. IMPORTANT CASE LAWS

6.1 Pakala Narayana Swami v. Emperor, AIR 1939 PC 47

This Privy Council decision is the foundational authority on the definition of confession in Indian law. The accused was charged with murder. A statement made by him — which in substance admitted certain incriminating facts but was structured as an explanation — fell to be considered by the court. Lord Atkin, delivering the judgment of the Privy Council, held that a confession must either admit the offence in terms, or admit substantially all the facts which constitute the offence. He further held that a statement that is partly inculpatory and partly exculpatory is not, on that account alone, disqualified from being a confession — the question is whether, read as a whole, it amounts to an unambiguous acknowledgement of guilt.

The significance of Pakala Narayana Swami cannot be overstated. It supplied the definitional framework that the statute conspicuously omitted and has been applied consistently by Indian courts for over eight decades. Its doctrinal contribution is the clear separation of confessions from mere incriminating statements: not every statement that



implicates the accused is a confession; only one that amounts to a complete and unequivocal acknowledgement of guilt merits that designation.

6.2 Palvinder Kaur v. State of Punjab, AIR 1952 SC 354

The Supreme Court in Palvinder Kaur addressed the question whether an exculpatory statement could be treated as a confession. The accused had made a statement in which she sought to explain away certain incriminating circumstances surrounding the death of her husband. The prosecution sought to rely on the inculpatory parts of the statement while discarding the exculpatory narrative. The Supreme Court, affirming the Privy Council's approach in Pakala, held that a mixed statement — containing both inculpatory and exculpatory elements — cannot be split by the court so that the prosecution benefits from the inculpatory parts alone. The court must take the statement as a whole. The decision has been applied in numerous subsequent cases and represents a significant check on prosecutorial overreach.

6.3 State (NCT of Delhi) v. Navjot Sandhu (Parliament Attack Case), (2005) 11 SCC 600

The Parliament Attack Case, decided by a Constitution Bench of the Supreme Court, raised several significant questions about the relationship between confessions made under Section 164 CrPC, confessions alleged to have been made to police officers, and the admissibility of electronic records. The case also engaged Section 27 of the Indian Evidence Act extensively. One of the accused had made a confession before a Magistrate under Section 164 CrPC, which was subsequently retracted. The Supreme Court held, applying the well-established principle, that a retracted confession may be relied upon if corroborated by other evidence, and that the mere fact of retraction does not render it inadmissible.

The case is also notable for its engagement with the probative value of confessions by co-accused persons under Section 30 of the Indian Evidence Act. The Court reiterated that the confession of a co-accused is not evidence in the strict sense — it cannot be used as the sole basis for conviction of another accused — but may be used to lend assurance to other incriminating evidence.

6.4 Aghnoo Nagesia v. State of Bihar, AIR 1966 SC 119

This decision of the Supreme Court is a landmark in the interpretation of Section 27 of the Indian Evidence Act — the discovery provision. The Court held that Section 27 carves out a narrow exception to the general prohibition on confessions to police officers under Section 25: only that portion of a confessional statement which distinctly relates to the discovered fact is admissible. The portion that precedes the discovery or provides context beyond the discovered fact cannot be admitted under this exception. The decision imposed an important discipline upon the prosecutorial use of custodial statements, ensuring that Section 27 does not become a back-door through which the general prohibition is circumvented.

6.5 Nandini Satpathy v. P.L. Dani, AIR 1978 SC 1025

Although primarily a case on the right against self-incrimination under Article 20(3) of the Constitution, Nandini Satpathy has important implications for the law of confessions. The Supreme Court, speaking through Justice V.R. Krishna Iyer, held that the constitutional guarantee against self-incrimination is not limited to confessions in the technical evidentiary sense; it extends to any statement that may furnish a 'link in the chain of evidence' against the accused. The decision broadened the understanding of incriminating statements and has been invoked in subsequent litigation to challenge the admissibility of statements that, while not amounting to confessions in the strict Pakala sense, nonetheless tend to implicate the maker.

6.6 Pyare Lal Bhargava v. State of Rajasthan, AIR 1963 SC 1094

This case authoritatively settled the question of retracted confessions. The accused had made a confession before a Magistrate under Section 164 CrPC and subsequently retracted it before the trial court. The Supreme Court held that a



retracted confession may still be acted upon if, after considering all the circumstances, the court is satisfied that the confession was voluntary and true. The Court emphasised that retraction, while a relevant factor, goes to weight and not admissibility, and that the court must consider the totality of circumstances — including the timing of the retraction, the explanation offered, and the corroborating evidence — before determining whether to act upon the confession.

VII. JUDICIAL INTERPRETATION AND PRACTICAL IMPLICATIONS

7.1 The Definitional Vacuum and Its Consequences

The absence of a statutory definition of 'confession' in the Indian Evidence Act — a lacuna replicated in the BSA — has had paradoxical consequences. On the one hand, it permitted the courts to develop a nuanced, case-by-case jurisprudence that is responsive to the particular facts of individual disputes. On the other hand, it introduced a degree of doctrinal unpredictability that is inconsistent with the demands of legal certainty. Accused persons — and their counsel — must navigate a definitional matrix that is entirely judicial in origin, and that matrix has not always been applied consistently.

The Pakala formulation — requiring either an express admission of the offence or an admission of substantially all its elements — has been the touchstone of this jurisprudence. However, courts have on occasion applied a more liberal test, treating statements as confessional even where the accused expressly qualified or contextualised the acknowledgement. This interpretive latitude, while understandable in light of the complexities of human communication, risks eroding the distinction between confessions and admissions and, with it, the protective framework that surrounds the former.

7.2 Section 27 and the Discovery Provision: A Critical Appraisal

Section 27 of the Indian Evidence Act — the discovery provision — has been one of the most litigated provisions in the entire Act. Its relationship with Section 25 (the prohibition on police confessions) is conceptually fraught: Section 27 is an exception to Section 25, but the scope of the exception has been the subject of intense judicial debate. The Supreme Court in *Aghnoo Nagesia* imposed a narrow construction, permitting only the discovery-related portion of the statement to be admitted. In practice, however, this limitation has proven difficult to enforce because statements to the police rarely come neatly parsed into discovery-relevant and discovery-irrelevant portions, and the police have strong incentives to present them in a form that maximises their admissibility.

The Law Commission of India, in its 185th Report (2003), noted the widespread concern about the misuse of Section 27 and the persistence of custodial violence, and recommended comprehensive reform. The BSA's provision for audio-visual recording of confessions is a partial response to this concern, but whether it will be effectively implemented in the conditions that prevail in Indian police stations remains to be seen.

7.3 The Co-Accused Confession Under Section 30

Section 30 of the Indian Evidence Act — now mirrored in Section 25 of the BSA — presents a tension between the general rule that evidence is admitted only against the person against whom it is directed and the practical exigency of joint trials. The courts have consistently held that a co-accused's confession is not 'evidence' in the formal sense; it cannot form the sole basis for the conviction of another accused, but it may be used to lend 'assurance' or 'corroboration' to other evidence. The doctrinal basis of this rule — the notion of 'assurance' — is itself analytically imprecise. If the confession cannot ground a conviction on its own, one may question in precisely what sense it 'assures' a conviction that is otherwise supported only by circumstantial evidence.

7.4 Admissions in Criminal Cases: The Blurred Boundary

In criminal proceedings, the distinction between admissions and confessions is operationally significant because the exclusionary rules applicable to confessions do not apply to admissions. A statement that implicates the accused in criminal activity but falls short of acknowledging guilt remains an admission and is admissible without the



voluntariness safeguards that apply to confessions. This asymmetry creates an incentive for the prosecution to characterise statements as admissions rather than confessions, thereby avoiding the stringent exclusionary regime. Courts must be vigilant against this interpretive temptation, particularly where the statement in question is one that would, in any fair characterisation, amount to an acknowledgement of guilt.

The Supreme Court in *Bharat v. State of U.P.*, AIR 1971 SC 1457, addressed the boundary between admissions and confessions in a criminal context. The Court noted that a statement that falls short of a confession but that is nevertheless incriminating must be assessed for relevance under the general rules governing admissions and that the voluntariness requirements applicable to confessions cannot be waived simply by re-labelling the statement. This judgment, though its precise holding is narrower, reflects the broader judicial concern about the integrity of the definitional boundary.

7.5 Implications of the *Bharatiya Sakshya Adhinyam, 2023*

The enactment of the BSA represents the most significant overhaul of Indian evidence law since independence. While the substantive provisions on admissions and confessions are broadly preserved, several innovations are noteworthy. The explicit recognition of audio-visual recording under Section 23(2) of the BSA addresses a long-standing demand for procedural safeguards and may, if implemented rigorously, reduce the incidence of fabricated or coerced confessions. The BSA's expanded framework for electronic evidence, particularly the provisions on admissibility of digital communications, will have growing significance in an era in which incriminating statements are as likely to appear in a WhatsApp message as in a signed document.

Critics, however, point out that the BSA retains the fundamental structural tension of its predecessor: the discovery provision remains intact, the prohibition on police confessions is juxtaposed with a partial exception, and the definitional gap regarding confession is unaddressed. One may also observe that the BSA's drafting, in places, reproduces the ambiguities of the original rather than resolving them — suggesting that the reforms are as much a codification of existing doctrine as a substantive departure from it.

VIII. CONCLUSION

The distinction between admission and confession is not a mere technical nicety; it is a doctrinal boundary that carries significant consequences for the rights of accused persons and the integrity of criminal adjudication. Admissions, as broader acknowledgements of fact, are governed by a relatively permissive admissibility regime suited to both civil and criminal proceedings. Confessions, as unequivocal acknowledgements of guilt, are surrounded by a far more stringent protective framework — one that reflects the law's recognition of the heightened risk of coercion and the particular danger of convicting on the basis of an involuntary statement.

The jurisprudence developed over a century and a half under the Indian Evidence Act, shaped decisively by Pakala Narayana Swami and its progeny, has produced a workable definitional framework, even if not always a consistent one. The courts have, in the main, applied the Pakala test with fidelity, insisting that a confession must be a complete and unambiguous acknowledgement of guilt. They have also, in the main, resisted the prosecutorial temptation to circumvent the exclusionary rules by characterising confessional statements as mere admissions.

The *Bharatiya Sakshya Adhinyam, 2023* represents an opportunity for legislative recalibration. It is a matter of some regret that the legislature did not take the occasion to supply a statutory definition of confession, to address the tensions inherent in Section 27 and its BSA equivalent, and to provide clearer guidance on the use of co-accused confessions in joint trials. The provision for audio-visual recording is a welcome step, but it is a procedural safeguard, not a substantive reform. A more confident legislative intervention — one that engages seriously with the doctrinal concerns identified by the Law Commission and academic commentators — would better serve the twin imperatives of effective prosecution and the protection of individual liberty.

In the final analysis, the distinction between admission and confession serves as a reminder that evidence law is not merely a technical discipline. It embodies — or should embody — a considered set of choices about the relationship



between the state and the individual in the context of criminal adjudication. Understanding this distinction, applying it faithfully, and subjecting it to continuous critical scrutiny are the obligations of every practitioner, judge, and scholar who operates within the framework of the Indian legal system.

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