

Admission under Evidence

Sahoo v. State of Uttar Pradesh AIR 1966 SC 40

- Facts:
- The appellant, Sahoo used to live with his daughter in law and his 8 year old son. His elder son lived in Lucknow. He developed illicit relations with his daughter in law. But there were incessant quarrels.
- On August 12, 1963, during one of those quarrels, Sunderpatti ran away to the house of one Mohammed Abdullah, a neighbour of theirs. The appellant brought her back, and after some wordy altercation between them they slept in the only room of their house.
- morning of August 13, 1963, Sunderpatti was found with serious injuries in the room of the house where she was sleeping and the appellant was not in the house. Sunderpatti was admitted in the Sadar Hospital, Gonda, at 5.25 p.m. on that day and she died on August 26, 1963 at 3 p.m.
- Appellant was sentenced to death under sec 302 of IPC.

- High Court:
- (1) The accused had illicit connections with the deceased;
- (2) the deceased and the accused had some quarrel on the Janmashtami day in the evening and the deceased had to be persuaded through the influence of their neighbours, Mohammed Abdullah and his womenfolk, to go back to the house of the accused;
- (3) the deceased was seen in the company of the accused for the last time when she was alive;
- (4) during the fateful night 3 persons, namely, the accused, the deceased and the accused's second son, Kirpa Shanker (P.W. 17), slept in the room inside the house;
- (5) on the early morning of next day, P.W. 17 was asked by his father to go out to attend to calls of nature, and when he came back to the varandah of the house he heard some gurgling sound, and he saw his father going out of the house murmuring something; and
- (6) P.Ws. 9, 11, 13 and 15 saw the accused going out of the house at about 6 a.m. on that day soliloquying that he had finished Sunderpatti and thereby finished the daily quarrels.

- Supreme Court:
- The circumstances from which the conclusion of guilt is to be drawn should be in the first instance fully established.
- at the outset deal with the contention that the soliloquy of the accused admitting his guilt was not an extra-judicial confession as the Courts below held it to be.
- It is argued that it is implicit in the concept of confession, whether it is extra-judicial or judicial, that it shall be communicated to another. It is said that one cannot confess to himself : he can only confess to another.
- But in *Pakala Narayana v. R.* L.R. 66 IndAp 66 has defined the said expression thus :
"A confession is a statement made by an accused which must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence."
- A scrutiny of the provisions of Sections 17 to 30 of the Evidence Act discloses, as one learned author puts it, that statement is a genus, admission is the species and confession is the sub-species.

- The dictionary meaning of the word "statement" is "the act of stating, reciting or presenting verbally or on paper." The term "statement", therefore, includes both oral and written statements. Is it also a necessary ingredient of the term that it shall be communicated to another ?
- The dictionary meaning of the term does not warrant any such extension; nor the reason of the rule underlying the doctrine of admission or confession demands it.
- Admissions and confessions are exceptions to the hearsay rule. The Evidence Act places them in the category of relevant evidence, presumably on the ground that, as they are declarations against the interest of the person making them, they are probably true.
- The probative value of an admission or a confession does not depend upon its communication to another, though, just like any other piece of evidence, it can be admitted in evidence only on proof.
- This proof in the case of oral admission or confession can be offered only by witnesses who heard the admission or confession, as the case may be.

- Illustration:
- A kills B; enters in his diary that he had killed him, puts it in his drawer and absconds. When he places his act on record, he does not communicate to another, indeed, he does not have any intention of communicating it to a third party. Even so, at the trial the said statement of the accused can certainly be proved as a confession made by him. If that be so in the case of a statement in writing, there cannot be any difference in principle in the case of an oral statement. Both must stand on the same footing.
- Taylor, Best and Phipson. In "A Treatise on the Law of Evidence" :"**Words addressed to others, and writing, are no doubt the most usual forms; but words uttered in soliloquy seem equally receivable.**"
- **A statement which the prisoner had been overheard muttering to himself, if otherwise than in his sleep, is admissible against him, if independently proved**

- But, there is a clear distinction between the admissibility of an evidence and the weight to be attached to it.
- A confessional soliloquy is a direct piece of evidence. It may be an expression of conflict of emotion; a conscious effort to stifle the pricked conscience; an argument to find excuse or justification for his act; or a penitent or remorseful act of exaggeration of his part in the crime.
- The tone may be soft and low; the words may be confused; they may be capable of conflicting interpretations depending on witnesses, whether they are biased or honest, intelligent or ignorant, imaginative or prosaic, as the case may be.
- Before such evidence can be accepted, it must be established by cogent evidence what were the exact words used by the accused.
- Even if so much was established, prudence and justice demand that such evidence cannot be made the sole ground of conviction. It may be used only as a corroborative piece of evidence.
- P.W.s 11, 13 and 15 deposed that they clearly heard the accused say when he opened the door of the house and came out at 6 O'clock in the morning of the fateful day that he had "finished Sunderpatti, his daughter-in-law, and thereby finished the daily quarrels". It clearly corroborates the other circumstantial evidence.