

**EXAMINATION OF WITNESSES AND
USE OF SUCH STATEMENTS**
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SECTION 160 Cr.P.C.

Any police officer making an investigation under this chapter may by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise appears to be acquainted with the facts and circumstances of the case, and such person shall attend as so required,

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.

- The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

Sec. 161 : Examination of witnesses by Police

- Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Govt. may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.
- Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.
- The police officer may reduce into writing any statement made to him in the course of an examination under this Section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Sec. 162 Statements to police not to be signed, Use of statements in evidence

- No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made :

Sec. 162 : Contd...

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by Sec. 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

- Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of Sec. 32 of the I.E. Act, 1872, or to affect the provisions of Sec. 27 of that Act.

Sec. 162 : Contd...

Explanation : An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in a particular context shall be a question of fact.

Section 24 Indian Evidence Act

- **Confession caused by inducement, threat or promise when irrelevant in criminal proceeding** - A confession made by an accused person is irrelevant in 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, Indian Evidence Act

- **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 Indian Evidence Act.

- **Confession by 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.
- ***Explanation*** - In this section “Magistrate” does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or elsewhere, unless such headman is a Magistrate exercising the Powers of a Magistrate under the Code of Criminal Procedure, 1882(10 of 1882)

Section 27 of Indian Evidence Act

- **How much of information received from accused may be proved** - Provided that when any act 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.

Section 28 of Indian Evidence Act

- **Confession made after removal of impression caused by inducement, threat or promise, relevant** - If such a confession as is referred to in Section 24 is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.

Section 29 Indian Evidence Act

- **Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.** - If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

Section 30, Indian Evidence Act.

- **Consideration of proved confession affecting person making it and others jointly under trial for some offence -** When more person than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

Sec. 30 (I.E.A.) Contd...

- *Explanation* : “Offence” as used in this section, includes the abetment of, or attempt to commit the offence.

ILLUSTRATION

- 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 his trial for the murder of C. There is evidence to show that C was murdered by A and B, and the 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.**

Sec. 32 I.E. Act: Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.

- Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured, without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:-

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- When it relates to cause of death- When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

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- Or is made in course of business : When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgement written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.

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- **Or against interest of maker** : When the statement is against the pecuniary or proprietary interest of the person making it or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.
- **Or gives opinion as to public right or custom, or matters of general interest** :- When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed he would have been likely to be aware, and when such statement was made before any controversy as to such right custom or matter had arisen.

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- **Or relates to existence of relationship :-** When the statement relates to the existence of any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.
- **Or is made in will or deed relating to family affairs :** When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

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- **Or in document relating to transaction mentioned in Sec. 13, clause (a) :** - When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in Sec. 13, clause (a).
- **Or is made by several persons and expresses feelings relevant to matter in question :-** When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

Sec. 145 I.E. Act.

- **Cross examination as to previous statements in writing :-**
 - A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Sec. 138 I.E. Act

- Order of examinations :-

- Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.
- The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.
- *Direction of re -examination* : The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

SECTION 49 Cr.P.C.

- NO UNNECESSARY RESTRAINT -
The person arrested shall not be subjected to more restraint that is necessary to prevent

SECTION 57 Cr.P.C.

- Person arrested not to be detained more than twenty-four hours - No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under Section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.