

FREE JUDICIARY CLASSES

BSA  2023 #24

Confession **(संस्वीकृति)**

Relevancy & Recording?

By Tansukh Paliwal



Bharatiya Sakshya Adhiniyam, 2023



22. Confession caused by inducement, threat, coercion or promise, when irrelevant in criminal proceeding.

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, coercion 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:

22. उत्प्रेरणा, धमकी, प्रपीड़न या वचन द्वारा कराई गई संस्वीकृति दायित्व कार्यवाही में कब विसंगत होती है।

अभियुक्त व्यक्ति द्वारा की गई संस्वीकृति दायित्व कार्यवाही में विसंगत होती है, यदि उसके किए जाने के बारे में न्यायालय को प्रतीत होता हो कि अभियुक्त व्यक्ति के विरुद्ध आरोप के बारे में वह ऐसी उत्प्रेरणा, धमकी, प्रपीड़न या वचन द्वारा कराई गई है जो प्राधिकारवान व्यक्ति की ओर से दिया गया है और जो न्यायालय की राय में इसके लिए पर्याप्त हो कि वह अभियुक्त व्यक्ति को यह अनुमान करने के लिए उसे युक्तियुक्त प्रतीत होने वाले आधार देती है कि उसके करने से वह अपने विरुद्ध कार्यवाहियों के बारे में ऐहिक रूप का कोई फायदा उठाएगा या ऐहिक रूप की किसी बुराई का परिवर्जन कर लेगा :

Bharatiya Sakshya Adhiniyam, 2023



23. Confession to police officer.

- (1) No confession made to a police officer shall be proved as against a person accused of any offence.**
- (2) No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate shall be proved against him:**
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 discovered, may be proved.



24. Consideration of proved confession affecting person making it and others jointly under trial for same offence.

When more persons 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.

24. साबित संस्वीकृति को, जो उसे करने वाले व्यक्ति और एक ही अपराध के लिए संयुक्त रूप से विचारित अन्य को प्रभावित करती है विचार में लेना ।

जब कि एक से अधिक व्यक्ति एक ही अपराध के लिए संयुक्त रूप से विचारित हैं तथा ऐसे व्यक्तियों में से किसी एक के द्वारा, अपने को और ऐसे व्यक्तियों में से किसी अन्य को प्रभावित करने वाली की गई संस्वीकृति को साबित किया जाता है, तब न्यायालय ऐसी संस्वीकृति को ऐसे अन्य व्यक्ति के विरुद्ध तथा ऐसे संस्वीकृति करने वाले व्यक्ति के विरुद्ध विचार में ले सकेगा ।



25. Admissions not conclusive proof, but may estop.

Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

25. स्वीकृतियां निश्चयक सबूत नहीं हैं किंतु विबंध कर सकती हैं।

स्वीकृतियां, स्वीकृत विषयों का निश्चयक सबूत नहीं हैं, किन्तु एतस्मिन् पश्चात् अन्तर्विष्ट उपबन्धों के अधीन विबंध के रूप में प्रवर्तित हो सकेंगी ।

Bharatiya Sakshya Adhiniyam, 2023



Statements by persons who cannot be called as witnesses

- 26. 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, namely:—

उन व्यक्तियों के कथन, जिन्हें साक्ष्य में बुलाया नहीं जा सकता

- 26. वे दशाएं जिनमें उस व्यक्ति द्वारा सुसंगत तथ्य का किया गया कथन सुसंगत है, जो मर गया है या मिल नहीं सकता, इत्यादि ।**

सुसंगत तथ्यों के लिखित या मौखिक कथन, जो ऐसे व्यक्ति द्वारा किए गए थे, जो मर गया है या मिल नहीं सकता है या जो साक्ष्य देने के लिए असमर्थ हो गया है। या जिसकी हाजिरी इतने विलम्ब या व्यय के बिना उपाप्त नहीं की जा सकती, जितना मामले की परिस्थितियों में न्यायालय को अयुक्तियुक्त प्रतीत होता है, निम्नलिखित दशाओं में स्वयमेव सुसंगत है, अर्थात् :



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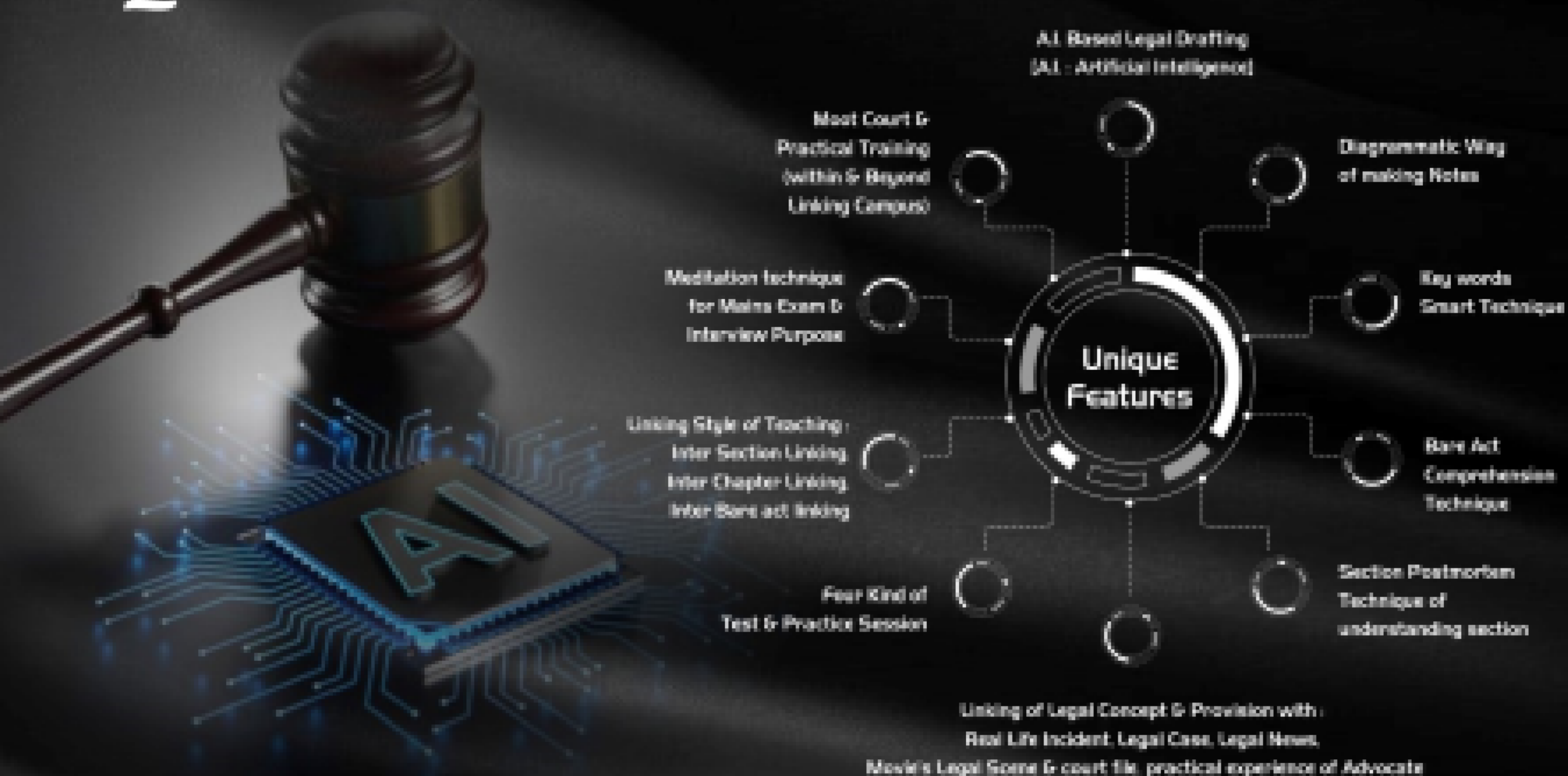


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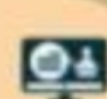


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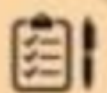


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Accused (अभिियुक्त)

"हैं, मैंने अपराध किया।"

✓
① Voluntary

②

③

(Trial)

विचारण

(POST Conviction)

Investigation
(By Police)

S. 186

S. 183

Statement
before
Police

Statement
before
Magistrate

CHARGE
FRAME
(After)

Do You
Plead
Guilty?

Compound

A → * → V
Court

PARDON
(Multiple
Arrows)
↓
Approver

Hearing
of
Sentence
(Emotion)

↓
Sentence
Liberal
View

Not
Plead

JM Present

CONFESSIO

Bharatiya Sakshya Adhiniyam, 2023



22. Confession caused by inducement, threat, coercion or promise, when irrelevant in criminal proceeding. (VOLUNTARY)

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, coercion 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:

अनैच्छित

अनैच्छित

Confession \neq Civil

Pro
main
Int' / Lw
BNs

BSA :	(22)	Voluntary :	<div><ul style="list-style-type: none">x Inducex Threatx Coercionx Promise</div>
	(23)	Police	[Grand Rule Exception]
	(24)	Joint Trial	

Bharatiya Sakshya Adhiniyam, 2023



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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 discovered, may be proved.

Statement Precedes Recovery

24. Consideration of proved confession affecting person making it and others jointly under trial for same offence.

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जब कि एक से अधिक व्यक्ति एक ही अपराध के लिए संयुक्त रूप से विचारित हैं तथा ऐसे व्यक्तियों में से किसी एक के द्वारा, अपने को और ऐसे व्यक्तियों में से किसी अन्य को प्रभावित करने वाली की गई संस्वीकृति को साबित किया जाता है, तब न्यायालय ऐसी संस्वीकृति को ऐसे अन्य व्यक्ति के विरुद्ध तथा ऐसे संस्वीकृति करने वाले व्यक्ति के विरुद्ध विचार में ले सकेगा ।

Bharatiya Sakshya Adhiniyam, 2023



Explanation I.—"Offence", as used in this section, includes the abetment of, or attempt to commit, the offence.

Explanation II.—A trial of more persons than one held in the absence of the accused who has absconded or who fails to comply with a proclamation issued under section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall be deemed to be a joint trial for the purpose of this section.

25

स्पष्टीकरण 1- इस धारा में प्रयुक्त " अपराध" शब्द के अन्तर्गत उस अपराध का दुष्प्रेरण या उसे करने का प्रयत्न आता है ।

स्पष्टीकरण 2- एक से अधिक व्यक्तियों का विचारण किसी ऐसे अभियुक्त की अनुपस्थिति में किया जाता है, जो भगौड़ा है या जो भारतीय नागरिक सुरक्षा (दूसरी) संहिता, 2023 की धारा 84 के अधीन जारी उद्घोषणा का अनुपालन करने में असफल रहता है, इस धारा के प्रयोजन के लिए संयुक्त विचारण समझा जाएगा ।



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Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

25. स्वीकृतियां निश्चयक सबूत नहीं हैं किंतु विबंध कर सकती हैं।

स्वीकृतियां, स्वीकृत विषयों का निश्चयक सबूत नहीं हैं, किन्तु एतस्मिन् पश्चात् अन्तर्विष्ट उपबन्धों के अधीन विबंध के रूप में प्रवर्तित हो सकेंगी ।



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