

**SUMMARY OF TOPIC – B**  
**ADMISSION AND CONFESSIONS, STATEMENTS RECORDED BY**  
**POLICE AND OTHER AUTHORITIES.**

Admission and Confession are two very important words in the legal context. Both words refer to the acknowledgment of the truth of something. The word ‘admission’ is a generic term and the word ‘confession’ is one of the species of it. The subject of admissions and confessions is dealt with by the provision of sections 17 to 31 of Indian Evidence Act, 1872.

2. An “Admission” is a statement of fact which waives or dispenses with the production of evidence by conceding that the fact asserted by the opponent is true. The definition of term “admission” as used in the Indian Evidence Act will be clear by reading four sections viz sections 17 to 20 together. If all these sections were to be written in one sentence, they would read as follows:-

3. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact and which is made by :-

- (1) A Party to the proceeding.
- (2) An agent to any party whom the court regards under the circumstances of the case, as expressly or impliedly authorized by him(the party) to make them;
- (3) Parties to suits, suing or being sued in representative capacity if the party making the statement held that representative capacity while making the statement;
- (4) Persons who have proprietary or pecuniary interest in the subject matter of proceeding, and who make the statement in their character of persons so interested and also if the statement are made during the continuance of the interest of the person making the statements;
- (5) Persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, if the statements are made during the continuance of the interest of the persons making the statement (Section 18);
- (6) Persons whose position or liability it is necessary to prove as against any part to the suit, if such statements would be relevant as against such persons (making the statement) in relation to such position or liability in a suit brought by or against them and if such statements are made which the person making them occupies such position or is subject to such liability(Section 19).

(7) Persons to whom a part to the suit has expressly referred for information in reference to a matter in dispute (Section 20).

4. According to the definition given above, the statement of parties to the suits or proceedings and also of persons who are not parties to such suits or proceedings, i.e., by strangers are admissions if they are made under the circumstances mentioned above and suggest any inference as to any fact in issue or relevant fact.

5. Admissions are admitted because the conduct of a party to a proceeding, in respect of the matter in dispute, whether by acts, speech or writing, which is clearly inconsistent with the truth of his contention, or a fact relevant to the issue. However the Hon'ble Apex Court in the case of Thiru John -vs- Returning Officer AIR 1977 SC 1724 held that,

*“It is well settled that, a party's admission as defined in Sections 17 to 20 fulfilling the requirements of Section 21 of Evidence Act, is substantive evidence proprio vigore. An admission, if clearly and unequivocally made, is the best evidence against the party making it and though not conclusive, shifts the onus on to the maker on the principle that "what a party himself admits to be true may reasonably be presumed to be so and until the presumption was rebutted the fact admitted must be taken to be established”.*

6. There is this observation in **PHIPSON ON EVIDENCE (9th Edn., 1952)** “Subject to certain exceptions, the general rule, then both in civil and criminal cases, is that any relevant statement made by a party is evidence against himself.

**WHEN ORAL ADMISSIONS AS TO CONTENTS OF DOCUMENTS ARE RELEVANT.**

7. Section 22 of Evidence Act deals with a provision as to when oral admissions as to contents of document are relevant. It provides that, “oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question”.

8. The contents of a document which is capable of being produced must be proved by the instrument itself and not by oral evidence. Oral admissions as to contents of a document are excluded under the section. They are however admissible when the party is entitled to give secondary evidence of the contents of such document under section 65 and 66 of Evidence Act.

**WHEN ORAL ADMISSIONS AS TO CONTENTS OF ELECTRONIC RECORD ARE RELEVANT**

9. Section 22 A of Evidence Act deals with the subject of oral admission as to contents of electronic records when relevant. It provides that “oral admissions as to the contents of electronic records are not relevant unless the genuineness of the electronic record produced is in question.

10. The section disallows the evidence of oral admission as to the contents of electronic records, it then talks of an exceptional situation which is that when the genuineness of electronic record produced before the court is itself in question. The section says that oral admission as to the contents of electronic record may be proved in evidence when the genuineness of the record has been questioned.

**ADMISSION IN CIVIL CASES WHEN RELEVANT**

11. Section 23 of Evidence Act deals with the admissions in civil cases when relevant. It provides that, “in civil cases, no admission is relevant if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the court can infer that the parties agreed to whether that evidence of it should not be given.

**ADMISSION NOT CONCLUSIVE PROOF, BUT MAY ESTOP**

12. Section 31 of Evidence Act deals with the effect of admission given by party in a proceeding. It provides that, “admissions are not conclusive proof of the matters admitted, but they may operate as estoppel under the provision hereinafter contained”.

13. However, a statement to be used as an admission must be clear, specific and unambiguous and in the own words of the person making it and has to be proved to be so. It is not an inference drawn by anybody which should be taken as an admission. An admission to be worthy of being received in evidence, considered and relied upon, it should firstly be the clear cut and accurate statement of that very person in his own words. It has to be proved to be the statement of the person who make it. It is immaterial to whom the admission is made. An admission made to a stranger is also relevant.

**CONFESSION:-**

14. The word 'confession' appears for the first time in Section 24 of the Indian Evidence Act. This section comes under the heading of 'Admissions' so it is clear that the confessions are merely one species of admission. Now the question is as to what admissions

amount to confessions. The word 'confession' has not been defined in the Act. Mr. Justice Stephen in his Digest of the Law of Evidence defined confession as “confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime”. According to this definition a statement of an accused will amount to a confession if it fulfills any of the following two conditions:

- (i) If he states that he committed the crime he is charged with, or
- (ii) if he makes a statement by which he does not clearly admit the guilt, yet from the statement some inference may be drawn that he might have committed the crime.

#### **CONFESSION TO BE VOLUNTARY:**

15. Where a confession is made by a person before a report was made to the police and before he was accused of an offence by others, the confession must be regarded as one made by an accused within the meaning of this section. A confession, if voluntary and truthfully made is an “efficacious proof of guilt”. It is an important piece of evidence and therefore it would be necessary to examine whether or not the confession made by the appellant was voluntary, true and trustworthy.

**JUDICIAL AND EXTRA-JUDICIAL CONFESSION:**

16. Confessions have been divided by English text-writers into two classes, namely, judicial and extra-judicial. Judicial confession are those which are made before a magistrate or in court in the due course of legal proceeding. A judicial confession has been defined to mean “plea of guilty on arrangement (before a tribunal) if made freely by a person in a fit state of mind”. Extra-judicial confessions are those which are made by the accused elsewhere than before a magistrate or in court. An 'extra-judicial confession' can be made to any person or to a body of persons. It is not necessary that the statements should have been addressed to any definite individual. It may have taken place in the form of a prayer. A confession to a private person is extra-judicial. An extra-judicial confession has been defined to mean “ a free and voluntary confession of guilt by a person accused of a crime in the course of conversation with persons other than judge or Magistrate seized of the charge against himself”.

**VALUE OF RETRACTED CONFESSION -**

17. A retracted confession is a statement made by an accused person before the trial begins by which he admits to have committed the offence but which he repudiates at the trial. After the commission of a serious offence some police officer makes investigation into the

matter, examines witnesses and the accused. If in his opinion the accused is proved to have committed the offence, he submits a report to a magistrate having jurisdiction in the matter. The court takes evidence and examines the accused. If during the investigation, the accused on being examined by the police officer is willing to admit the guilt the police officer sends the accused to some magistrate for recording his statement. The magistrate after being satisfied that the accused admits in his statement to have committed the offence this recorded statement by the magistrate may be proved at the trial. When the trial begins the accused on being asked as to whether he committed the crime he may say that he did not commit the crime. The question may again be put to him as to whether he made statement before the magistrate during the investigation confessing the guilt. He may deny to have made the statement at all or he may say that he made that statement due to undue influence of the police. In this case the confession made by the accused to the magistrate before the trial begins is called retracted confession.

18. It is unsafe to base conviction on a retracted confession unless it is corroborated by trustworthy evidence. There is no definite law that a retracted confession cannot be the basis of the conviction but it has been laid down as a rule of practice and prudence not to rely on retracted confession unless corroborated. Courts have convicted persons on retracted confession when they have been of

the opinion that the confession when it was made was voluntary or consistent and true but the real rule of law about the retracted confession is “where the retracted confession is the sole evidence it can be of little value specially when made during the competition for a pardon which sometimes occurs where a number of persons are suspected of an offence”.

**DIFFERENCE BETWEEN ADMISSION AND CONFESSION :**

Confession	Admission
1. Confession is a statement made by an accused person which is sought to be proved against him in criminal proceeding to establish the commission of an offence by him.	1. Admission usually relates to civil transaction and comprises all statements amounting to admission defined under section 17 and made by person mentioned under section 18, 19 and 20.
2. Confession if deliberately and voluntarily made may be accepted as conclusive of the matters confessed.	2. Admissions are not conclusive as to the matters admitted it may operate as an estoppel.
3. Confessions always go against the person making it.	3. Admissions may be used on behalf of the person making it under the exception of section 21

	of evidence act.
4. Confessions made by one or two or more accused jointly tried for the same offence can be taken into consideration against the co-accused (section 30).	4. Admission by one of the several defendants in suit is no evidence against other defendants.
5. Confession is statement written or oral which is direct admission of proceeding.	5. Admission is statement oral or written which gives inference about the liability of person making admission.

19) The acid test which distinguishes a confession from an admission is that where conviction can be based on the statement alone, it is confession and where some supplementary evidence is needed to authorize a conviction, then it is an admission as stated in ***Ram Singh v. State, AIR 1959 All 518***. Another test is that if the prosecution relies on the statement as being true it is confession and if the statement is relied on because it is false it is an admission. In criminal cases a statement by accused, not amounting to confession but giving rise to inference that the accused might have committed the crime is his admission.

20) No confession made to a police officer shall be proved as against a person accused of any offence. [Section 25 – Evidence Act]

**REASONS FOR EXCLUSION OF CONFESSION TO POLICE -**

21) If confessions to police were allowed to be proved in evidence, the police would torture the accused and thus force him to confess to a crime which he might not have committed. A confession so obtained would naturally be unreliable. Such a confession will be irrelevant whatever may be its form, direct, express, implied or inferred from conduct. In *Dagdu v. State of Maharashtra, AIR 1977 S.C. 1579*, the Hon'ble Supreme court has observed that "The archaic attempt to secure confessions by hook or by crook seems to be the be-all and end-all of the police investigation. The police should remember that confession may not always be a short-cut to solution. Instead of trying to "start" from a confession they should strive to "arrive" at it. Else, when they are busy on their short-route to success, good evidence may disappear due to inattention to real clues. Once a confession is obtained, there is often flagging of zeal for a full and through investigation with a view to establish the case de hors the confession, later, being inadmissible for one reason or other, the case fumbles in the court.

**THE DOCTRINE OF CONFIRMATION BY SUBSEQUENT EVENTS.**

22) Section 27 of the Indian Evidence Act provides that confession of the accused when he is in custody of the police though it is not admissible under Section 25 or 26, if such confession is

supported by discovery of a fact, the confession has to be presumed to be true to the extent of discovery.

23) The Hon'ble Apex Court in *State of Maharashtra Vs. Damu Gopinath Shinde AIR 2000 SC 1691* observed that, "The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered in a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. The information might be confessional or non-inculpatory in nature, but if it results in discovery of a fact it becomes a reliable information. This view is reiterated by Hon'ble Apex Court in *Rumi Bora Dutta v. State of Assam, (2013) 7 SCC 417*

24) In *State of Punjab v. Gurnam Kaur and Ors. (2009) 11 SCC 225*, it has been laid down that if by reason of statements made by an accused some facts have been discovered, the same would be admissible against the person who had made the statement in terms of Section 27 of the Evidence Act.

25) In *Aftab Ahmad Anasari v. State of Uttaranchal (2010) 2 SCC 583*, after referring to earlier decision in *Pulukuri Kotayya*, a

two-Judge Bench opined in the context of the said case that when the accused was ready to show the place where he had concealed the clothes of the deceased, the same was clearly admissible under Section 27 of the Evidence Act because the same related distinctly to the discovery of the clothes of the deceased from that very place.

26) In **Bhagwan Dass v. State (NCT) of Delhi [AIR 2011 SC 1863]**, relying on the decisions in **Aftab Ahmad Anasari** (supra) and **Manu Sharm v. State [AIR 2010 SC 2352]**, the Court opined that when the accused had given a statement that related to discovery of an electric wire by which the crime was committed, the said disclosure statement was admissible as evidence.

**TAPE RECORDED CONFESSION IS ADMISSIBLE:**

27) Tape recorded statement is a document as defined in Section 3 of the Evidence Act which stands on no different footing than photograph. The same is relevant on satisfying the following conditions:

- (i) the voice of the person alleged to be speaking must be identified by the maker of the record or by others who know it,

(ii) Accuracy of what was actually recorded has to be proved by the maker of the record, and satisfactory evidence, direct or circumstantial, has to be there so as to rule out the possibility of tampering with the record.

(iii) The subject matter recorded has to be shown to be relevant according to the rules of relevancy in the Evidence Act.

**STATEMENTS RECORDED BY POLICE AND OTHER AUTHORITIES.**

28) 'Civilized people are generally insensitive when a crime is committed even in their presence. They withdraw both from the victim and the vigilant. They keep themselves away from the Court unless it is inevitable.' (Ref: Appabhai Vs. State of Gujrat AIR 1988 SC 696). This observation was made by the Hon'ble Apex Court when prosecution could not produce independent witnesses in that case. In the process of investigation, under Section 161 of Cr.P.C, any Police officer making an investigation is accredited and empowered to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record statement of witnesses. These statements are predominantly called as section 161 of Cr.P.C statements. This task is to gather evidence against accused. After filing charge sheet, these statements will also be perused by the Court to take cognizance of an offence. Such a statement can only be

utilized for contradicting the witness in the manner provided by Section 145 of the Evidence Act.

29) What is a contradiction? In case of a witness who testifies before the court that a certain fact is existed without stating same before police; it is a case of conflict between the testimony before the court and statement made before the police. This is a contradiction. Therefore statement before the police can be used to contradict his testimony before the court. In Appabhai .Vs. State of Gujrat AIR 1988 S.C. 694 [1988 Cri.L.J. 848], The Hon'ble Apex Court has observed as under: "The Court while appreciating the evidence must not attach undue importance to minor discrepancies. The discrepancies which do not shake the basic version of the prosecution case may be discarded.

30) What is an 'Omission'? An omission is either skip or slip, it means 'exclusion' or 'leaving out'. If a certain fact is testified by a witness in his Examination-in-Chief, such fact, which is testified in Court, had been omitted to state before police, it is called an 'Omission'. Now, it is to be tested by the Court whether it is a material omission or not. If it is a material omission, it amounts to contradiction. The Hon'ble Apex Court opines that relevant and material omissions amount to vital contradictions, which can be established by cross- examination and confronting the witness with

his previous statement. (Ref; Tahsildar Singh ..Vrs..State of U.P., 1959 SCR Supl. (2) 875; AIR 1959 1012 (1026)). However, as was held in Ponnuswamy Chetty v. Emperor (A.I.R. 1957 All. 239), ‘ a bare omission cannot be a contradiction’.

**THE OBJECT BEHIND RECORDING STATEMENT BY A MAGISTRATE IN ADDITION TO THE STATEMENTS RECORDED BY POLICE :-**

31) A question may also arise as to why a Magistrate is empowered to record statement in addition to the statements recorded by police under section 161 of the code and particularly when section 145 apparently does not distinguish between the statement under section 162 or statement under section 164 of the code and there is no additional weightage is given to the statements recorded under section 164 of the code for the purpose of contradicting a witness.

32) The object behind it is that when during the course of investigation police records the statements under section 161 of the code they cannot administer oath to the person making statement and cannot obtain his signature, but under section 164 of the code, a magistrate recording statement of a person can administer oath to him and obtain his signature over the statement. The person making and signing a statement before the magistrate during the course of

investigation will not disown it and will support the case of prosecution. Certainly if a person makes and signs a statement then naturally he comes under moral obligation and chances of his turning hostile will be reduced. In our social condition prevailing in our country tampering of prosecution witnesses is favourite pastime. So, getting statement recorded by the magistrate is the recognized method to deter prosecution witnesses from changing their versions subsequently. However for that reason alone, their trustworthiness cannot be doubted. But the evidence of witness whose statement is recorded under section 164 of the code must be approached with caution. This however, cannot invariably bear the rule of law when it is disclosed that a witness whose statement has been recorded under section 164 of the code was kept in police custody for several days and his whereabouts were not disclosed to the relatives, then the evidence tendered by that witness in a court should not be relied upon. Similarly a witness whose statement is recorded under section 164 of the code is not sticking to his statements so recorded the court should not rebuke him and threaten him that he will be prosecuted for perjury.

### **SOME IMPORTANT ASPECTS AND JUDGMENTS :-**

#### **(A) WHEN WITNESS TURNS HOSTILE :-**

33) If a magistrate has recorded statement of a witness in the

manner provided under section 164 (5) of the Code, the charge sheet is filed and case is committed to the Sessions Court for the trial, and during the trial the witness whose statement has been recorded under section 164 of the code, completely turns hostile. He even gone to the extent that his statement was not at all recorded by the magistrate. Then how to make use of that statement in the trial.

34) In case of Kasmira Singh -vs- State of M.P. A.I.R. 1952 S.C. 159, it is observed that -

*“In case witness denies the fact of recording of his statement by Magistrate or if he denies specific portion of his statement to be not told by him, examination of Magistrate is not necessary to prove contradiction which is unlike the case of statement recorded by police under section 162”.*

35) In the above authority The Hon'ble Apex court has endorsed the judgment of Privy Council in Nazir Ahmed -vs- King Emperor A.I.R. 1936 P.C. 253.

36) In case of Guruvind palli Anna Rao -vs- State of A.P. 2003 Cri. L.J. 3253, it has been specifically observed that -

*“Statement of witness recorded under section 164 of the code is a public document which does not require any formal proof. Hence summoning of Magistrate by*

*Sessions Court to prove contents of the said statement is improper.*

**PRESUMPTION:-**

37) **Section 80 of the Evidence Act states that** – whenever any document is produced before any court, purporting to be a record or memorandum of the evidence, or any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the court shall presume - *that the document is genuine, that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.*

38) In view of the provision of 164 of the code if the Magistrate has not put his signature on the statement but has endorsed his certificate at the foot of the statement, then it is very difficult to ascertain as to whether the witness is speaking truth or false. The part of presumption at the foot of the section 80 of the evidence act states that – that any statement as to the circumstances under which it was taken, purporting to be made by the person signing it. That means if the statement which bears the signature of the maker can only come under the purview of section 80 of the

Evidence Act. In such situation if the statement bears the signature of the maker then and then only the statement can be held as public document and the presumption under section 80 of the Evidence Act can be made applicable to it and the authorities cited supra can be made applicable to it. If the statement does not bear the signature of the maker then it can not be considered as public document and no presumption under section 80 can be applied to it inspite of the endorsement of the magistrate who has recorded the statement. In such circumstances it is incumbent on the prosecution to adduce the evidence of magistrate in order to prove the contents of the statement for making its use in the trial.

39) In the case of Forest Range Officer, ... vs Aboobacker And Anr [1989 Cri.L.J 2038] ( Kerala High Court) it has been observed that the admissibility of the confession made to the Forest Range Officer is not open to doubt since the embargo contained in Section 25 of the Evidence Act is not applicable to it. Forest Officers, though they are invested with some of the police powers, are not Police Officers. Hence they can give evidence before Court regarding admissions or confessions made to them by accused persons, whether or not such persons were then in custody. If the Court considers such confession to be reliable, there is no legal bar in acting on such confession.

40) In *Noor Aga v. State of Punjab (2008) 9 SCALE 681* where the Hon'ble Apex court, has after considering the entire scheme of the Customs Act, has held that the officer Under Section 53 of the customs Act is a police officer and would, therefore, attract the provisions of Section 25 of the Evidence Act. It observed :

“104. Section 53 of the Act, empowers the Customs Officer with the powers of the Station House Officers. An officer invested with the power of a police officer by reason of a special status in terms of Sub-section (2) of Section 53 would, thus, be deemed to be police officers and for the said purposes of Section 25 of the Act shall be applicable.”

41) The Madras High Court has considered whether a Forest Range Officer under the Madras Forest Act is a Police Officer for the purpose of Section 25 of the Evidence Act (*E. C. Richard v. Forest Range Officer AIR 1958 Mad 31 : 1958 Cri LJ 52.* It was held that the Forest Officer is at par with the Customs Officer and hence what applies to the Customs Officer applies to the Forest Officers also. It has been observed in the said decision that "in the absence of a specific provision in the Madras Forest Act conferring on the Forest Officer all the powers of an Officer-in-Charge of a Police Station he cannot be called a 'Police Officer' and a statement made to him will not be hit by Section 25 of the Evidence Act". Neither the Kerala

Forest Act nor the Wild Life Protection Act conferred all the powers of Police Officers on the Forest Officers or wild life protection force even though some of the powers have been conferred on them to be exercised in specified contexts. It is therefore clear that the embargo contained in Section 25 of the Evidence Act cannot be applied to the statements made to a Forest Officer or Range Officer etc.

42) The Supreme Court in the case of *Rajkumar Karwal v. Union of India & Ors (1990) 2 SCC 409* by following the ratio in the case of *Ramesh Chandra Mehta v. State of West Bengal, [1969] 2 S.C.R. 461*, has held that the officers of the Department of Revenue Intelligence (DRI) who have been invested with the powers of an officer-in-charge of a police station under Section 53 of the NDPS Act are not "police officers" within the meaning of Section 25 of the Evidence Act, 1872. Therefore, a confessional statement recorded by such officer in the course of investigation of a person accused of an offence under the Act is admissible in evidence as against him. It is further observed that officer appointed under Section 53 of the NDPS Act, other than police officer is not entitled to exercise "all" powers under Chapter XII including power to submit a chargesheet/report under Section 173 of Cr. P.C.

43) The Hon'ble Apex Court in the case of *Francis Stanly alias Stalin v. Intelligence Officer [MANU/SC/8783/2006: 2007 Cri.L.J. 1157]* has held that while it is true that a confession made before an Officer of the Department of Revenue Intelligence under the NDPS Act may not be hit by Section 25 of the Evidence Act, yet such a confession must be subject to closer scrutiny than a confession made to private citizens or officials who do not have investigating powers under the Act.

**DETERMINATION OF 'POLICE OFFICER' FOR THE PURPOSE OF SECTION 25 OF THE EVIDENCE ACT**

44) In *Tofan singh vs state of Tamil Nadu, 2014 (1) Crimes*

42, the Ho'ble Apex Court has observed thus :-

*34. We have also to keep in mind the crucial test to determine whether an officer is a police officer for the purpose of Section 25 of the Evidence Act viz. the "influence or authority" that an officer is capable of exercising over a person from whom a **confession** is obtained. The term "police officer" has not been defined under the Code or in the Evidence Act and, therefore, the meaning ought to be assessed not by equating the powers of the officer sought to be equated with a police officer but from the power he possesses from the perception of the common public to assess his capacity to influence, pressure or coercion on persons who are searched, detained or arrested. The influence exercised has to be assessed from the consequences that a person is likely to suffer in view of the provisions of the Act under which he is being booked. It, therefore, follows that a police officer is one who:*

(i) is considered to be a police officer in "common parlance" keeping into focus the consequences provided under the Act.

(ii) is capable of exercising influence or authority over a person from whom a confession is obtained.

45) *After making above observation, the Hon'ble Apex Court sent the matter to a larger Bench for re-consideration of the issue as to whether the officer investigating the matter under NDPS Act would qualify as police officer or not.*

#### **STATEMENT RECORDED BY OTHER AUTHORITIES**

1. Statement recorded by Judicial Magistrate :

I) Judicial Magistrate can also record statement of a person as provided in Section 164 of the Code of Criminal Procedure and such statement would either be elevated to the status of Section 32 if the maker of the statement subsequently dies or it would remain within the realm of what it was originally. A statement recorded by a Magistrate under Section 164 becomes usable to corroborate the witness as provided in Section 157 of the Evidence Act or to contradict him as provided in Section 155 thereof.

**2. Under TADA Act :**

II) Section 15 of the Terrorist and Disruptive Activities (Prevention) Act (28 of 1987) and Rule 15 of TADA Rule [now repealed] authorize the Superintendent of Police also to record a confession or any statement made by a person under the TADA Act besides Metropolitan Magistrates, Judicial Magistrates and Special Executive Magistrates empowered to record any confession U/sec.164(1) Cr. P. C.

**3. Under the Maharashtra Village Police Act 1967 :**

III) Under the above said Act the Police Patil has powers under Section 15 of the Act to call and examine witnesses while making an investigation. However, he must be held as a 'Police Officer' for such purpose.

Submitted with respects.

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