G.Shivaiah

Demystification Of Section 27 IEA

Prosecution Replenish

Acknowledgment

न चोर हार्यं न च राज हार्यं
न भ्रातृ भाज्यं न च भारकारि।
व्यये कृते वर्धत एव नित्यं
विद्याधनं सर्वधन प्रधानम्॥

The poet talks about the unique characteristics of the acquired knowledge.

The acquired knowledge

- cannot be stolen by any thief
- nor can it be taxed by the king or the government
- It can neither be divided amongst siblings
- nor is it heavy to carry
- the more we spend (in teaching others) in the process the more we learn day by day
- knowledge is the most prestigious of all possessions

It is truly an honour to present this collection of judgments. On earlier occasion as you are all aware that I had literally lifted the judgments from the chambers of Sri G.Sivaiah, then in service, now retired Prosecutor. Sir is no stranger to the prosecutors of Telugu Speaking states, for others, he is a ardent reader, a good analyzer of judgments and a great meticulous presenter of the case and law in the courts. There are n number of cases to his credit, which boasts of its stand it stood, only due to the effective prosecution done by Sir. But this time, Sir himself volunteered to share this collection on confessions.

Hoping that this would satiate the interests of patrons of OUR leaflet “Prosecution Replenish”

I remain at your service,

L.H.Rajeshwer Rao,
Prosecution Replenish

Demystification of Section 27 IEA

Sri G.Sivaiah
Prosecutor(Retd)

> *27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered inconsequence 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 27 is an exception to Section 25 and 26 of Indian Evidence Act. It is in the nature of a provisio to Section 25 and 26. The basic idea embedded in section 27 of Evidence Act is the doctrine of confirmation by subsequent events which Doctrine is founded on the principle that any fact is discovered in a search made on the strength of a information obtained from accused, such a discovery is a guarantee that the information supplied by the accused is true.

The reason behind the partial lifting of the ban against the confessions and statements made to the police, is that, if a fact is actually discovered in consequence of information given by the accused, it effords some guarantee after truth of the part and that part of the information only which was the clear immediate and proximate cause of the discovery.

Conditions of section 27

1. Discovery of act in consequence of an information received from the accused
2. Discovery of such fact to be deposed to
3. The accused must be in police custody when he gave information and
4. So much of information as relates directly to the fact there by discovered

It emerges that one person is parting with his knowledge of Information and the other person is deriving the knowledge of information with regard to the Object produced, Place of object concealed and the Exclusive knowledge of information possessed by the accused. The information must be clear, immediate and proximate cause of Discovery.

Fact discovered:- includes not only the physical object that is produced but also the place from which it is produced and the knowledge of the accused.

1. The scope and ambit of Section 27 of the Act were illuminatingly stated in **Phulukuri Kottaya v. Emperor, AIR (1947) PC 67,** which have become locus classicus, in the following words:
"It is fallacious to treat the “fact discovered” within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information supplied by a person in custody that “I will produce a knife concealed in the roof of my house” does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added “with which I stabbed “A" these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant."

2. **2004 0 AIR(SC) 2865; 2004 2 Crimes(SC) 38; 2004 0 CrLJ 1380; 2004 10 SCC 657; 2005 0 SCC(Cri) 597; 2004 0 Supreme(SC) 151; Anter Singh Vs. State of Rajasthan; Criminal Appeal No. 1105 of 1997; Decided on 5-2-2004**
The expression "provided that" together with the phrase "whether it amounts to a confession or not" show that the section is in the nature of an exception to the preceding provisions particularly Section 25 and 26. It is not necessary in this case to consider if this Section qualifies, to any extent, Section 24, also. It will be seen that the first condition necessary for bringing this Section into operation is the discovery of a fact, albeit a relevant fact, in consequence of the information received from a person accused of an offence. The second is that the discovery of such fact must be deposed to. The third is that at the time of the receipt of the information the accused must be in police custody. The last but the most important condition is that only "so much of the information" as relates distinctly to the fact thereby discovered is admissible. The rest of the information has to be excluded. The word "distinctly" means "directly", "indubitably", "strictly", "unmistakably". The word has been advisedly used to limit and define the scope of the provable information. The phrase "distinctly" relates "to the fact thereby discovered" and is the linchpin of the provision. This phrase refers to that part of the information supplied by the accused which is the direct and immediate cause of the discovery. The reason behind this partial

lifting of the ban against confessions and statements made to the police, is that if a fact is actually discovered in consequence of information given by the accused, it affords some guarantee of truth of that part, and that part only, of the information which was the clear, immediate and proximate cause of the discovery. No such guarantee or assurance attaches to the rest of the statement which may be indirectly or remotely related to the fact discovered. (See Mohammed Inayuttillah v. The State of Maharashtra (AIR 1976 SC 483).

At one time it was held that the expression "fact discovered" in the section is restricted to a physical or material fact which can be perceived by the senses, and that it does not include a mental fact, now it is fairly settled that the expression "fact discovered" includes not only the physical object produced, but also the place from which it is produced and the knowledge of the accused as to this, as noted in Palukuri Kotayya s case (supra) and in Udai Bhan v. State of Uttar Pradesh (AIR 1962 SC 1116).

3. **2002 0 AIR(SC) 3164; 2002 0 AIR(SC) 3164(1); 2002 4 Crimes(SC) 182; 2002 0 CrLJ 4664; 2002 8 SCC 45; 2003 0 SCC(Cri) 201; 2002 6 Supreme 154; Bodh Raj @ Bodha & Ors. Vs. State of Jammu & Kashmir; Criminal Appeal No. 921 of 2000 With (Criminal Appeal Nos. 791/2001, 792/2001 and 837/2001); Decided on 3-9-2002**

Emphasis was laid as a circumstance on recovery of weapon of assault, on the basis of informations given by the accused while in custody. The question is whether the evidence relating to recovery is sufficient to fasten guilt on the accused. Section 27 of the Indian Evidence Act, 1872 (in short the Evidence Act) is by way of proviso to Sections 25 to 26 and a statement even by way of confession made in police custody which distinctly relates to the tact discovered is admissible in evidence against the accused. This position was succinctly dealt with by the this Court in Delhi Admn. V. Balakrishan (AIR 1972 SC 3) and Md. Inayatullah v. State of Maharashtra (AIR 1976 SC 483). The words "so much of such information" as relates distinctly to the fact thereby discovered, are very important and the whole force of the section concentrates on them. Clearly the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. The ban as imposed by the preceding sections was presumably inspired by the fear of the Legislature that a person under police influence might be induced to confess by the exercise of undue

pressure. If all that is required to lift the ban be the inclusion in the confession of information relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the police will prove equal to the occasion, and that in practice the ban will lose its effect. The object of the provision i.e. Section 27 was to provide for the admission of evidence which but for the existence of the section could not in consequences of the preceding sections, be admitted in evidence. It would appear that under Section 27 as it stands in order to render the evidence leading to discovery of any fact admissible, the information must come from any accused in custody of the police. The requirement of police custody is productive of extremely anomalous results and may lead to the exclusion of much valuable evidence in cases where a person, who is subsequently taken into custody and becomes an accused, after committing a crime meets a police officer or voluntarily goes to him or to the police station and states the circumstances of the crime which lead to the discovery of the dead body, weapon or any other material fact, in consequence of the information thus received from him. This information which is otherwise admissible becomes inadmissible under Section 27 if the information did not come from a person in the custody of a police officer or did come from a person not in the custody of a police officer. The statement which is admissible under Section 27 is the one which is the information leading to discovery. Thus, what is admissible being the information, the same has to be proved and not the opinion formed on it by the police officer. In other words, the exact information given by the accused while in custody which led to recovery of the articles has to be proved. It is, therefore, necessary for the benefit of both the accused and prosecution that information given should be recorded and proved and if not so recorded, the exact information must be adduced through evidence. 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 as 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. It is now well settled that recovery of an object is not discovery of fact envisaged in the section. Decision of Privy Council in Palukuri Kotayya v. Emperor (AIR 1947 PC 67), is the most quoted authority for supporting the interpretation that the

"fact discovered" envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect, [see State of Maharashtra v. Danu Gopinath Shirde and Ors. (2000) Crl. LJ 2301]. No doubt, the information permitted to be admitted in evidence is confined to that portion of the information which "distinctly relates to the fact thereby discovered". But the information to get admissibility need not be so truncated as to make it insensible or incomprehensible. The extent of information admitted should be consistent with understandability. Mere statement that the accused led the police and the witnesses to the place where he had concealed the articles is not indicative of the information given.

4. **2022 0 Supreme(SC) 569; Shahaja @ Shahajan Ismail Mohd. Shaikh Vs. STATE OF MAHARASHTRA; Criminal Appeal No. 739 of 2017; Decided on : 14-07-2022**

the panchnama can be used only to corroborate the evidence of the panch and not as a substantive piece of evidence.

This Court has time and again impressed upon the necessity of reading over the panchnama which can be used as a piece of corroborative evidence. In spite of this, it is regrettable that the learned trial judge did not take the pains to see that the panchnama was read over to the panch before it was exhibited. A panchnama which can be used only to corroborate the panch has to be read over to the panch and only thereafter it can be exhibited. If the panch has omitted to state something which is found in the panchnama, then after reading over the panchnama the panch has to be asked whether that portion of the panchnama is correct or not and whatever reply he gives has to be recorded. If he replies in the affirmative, then only that portion of the panchnama can be read into evidence to corroborate the substantive evidence of the panch. If he replies in the negative, then that part of the panchnama cannot be read in evidence for want of substantive evidence on record. It is, therefore, necessary that care is taken by the public prosecutor who conducts the trial that such a procedure is followed while examining the panch at the trial. It is also necessary that the learned trial judge also sees that the panchnama is read over the panch and thereafter the panchnama is exhibited after following the procedure as indicated above.

The appreciation of ocular evidence is a hard task. There is no fixed or straight-jacket formula for appreciation of the ocular

evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:

I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When eye-witness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might

emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.

[See Bharwada Bhoginbhai Hirjibhai v. State of Gujarat, 1983 Cri LJ 1096 : AIR 1983 SC 753, Leela Ram v. State of Haryana, AIR 1999 SC 3717, and Tahsildar Singh v. State of UP, AIR 1959 SC 1012]

To put it simply, in assessing the value of the evidence of the eye-witnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, the circumstances either elicited from those witnesses themselves or established by other evidence tending

to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, yet the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or puts forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.

5. Even while discarding the evidence in the form of discovery panchnama the conduct of the appellant herein would be relevant under Section 8 of the Act. The evidence of discovery would be admissible as conduct under Section 8 of the Act quite apart from the admissibility of the disclosure statement under Section 27, as this Court observed in A.N. Venkatesh v. State of Karnataka, (2005) 7 SCC 714,:

"By virtue of Section 8 of the Evidence Act, the conduct of the accused person is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact. The evidence of the circumstance, simpliciter, that the accused pointed out to the police officer, the place where the dead body of the kidnapped boy was found and on their pointing out the body was exhumed, would be admissible as conduct under Section 8 irrespective of the fact whether the statement made by the accused contemporaneously with or antecedent to such conduct falls within the purview of Section 27 or not as held by this Court in Prakash Chand Vs. State (Delhi Admn.) [(1979) 3 SC 90]. Even if we hold that the disclosure statement made by the accused appellants (Ex. P14 and P15) is not admissible under Section 27 of the Evidence Act, still it is relevant under Section 8."

6. In the State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600, the two provisions i.e. Section 8 and Section 27 of the Act were elucidated in detail with reference to the case law on the subject and apropos to Section 8 of the Act, wherein it was held:

"Before proceeding further, we may advert to Section 8 of the Evidence Act. Section 8 insofar as it is relevant for our purpose makes the conduct of an accused person relevant, if such conduct influences or is influenced by any fact in issue or relevant fact. It could be either previous or subsequent conduct.

There are two Explanations to the Section, which explains the ambit of the word “conduct”. They are:

Explanation 1 : The word “conduct” in this Section does not include statements, unless those statements accompany and explain acts other than statements, but this explanation is not to affect the relevancy of statements under any other Section of this Act.

Explanation 2 : When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

The conduct, in order to be admissible, must be such that it has close nexus with a fact in issue or relevant fact. The Explanation 1 makes it clear that the mere statements as distinguished from acts do not constitute “conduct” unless those statements "accompany and explain acts other than statements". Such statements accompanying the acts are considered to be evidence of res gestae. Two illustrations appended to Section 8 deserve special mention.

(f) The question is, whether A robbed B.

The facts that, after B was robbed, C said in A's presence --the police are coming to look for the man who robbed B", and that immediately afterwards A ran away, are relevant.

***

(i) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

POCSO

7. 2021 2 Crimes(HC) 294; Penukula Sadaiah Sadi Vs. State of Telangana; Criminal Appeal No.2965 of 2018; Decided on 30.4.2021

In deciding the sufficiency of the circumstantial evidence for the purpose of conviction, the court has to consider the total cumulative effect of all the proved facts, each one of which reinforces the conclusion of guilt and if the combined effect of all these facts taken together is conclusive in establishing the guilt of the accused, the conviction would be justified even though it may be that one or more of these facts by itself or themselves is/are not decisive. The facts established should be consistent only with the hypothesis of the guilt of the accused and should exclude

every hypothesis except the one sought to be proved. But this does not mean that before the prosecution can succeed in a case resting upon circumstantial evidence alone, it must exclude each and every hypothesis suggested by the accused, howsoever, extravagant and fanciful it might be. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused, where various links in chain are in themselves complete, then the false plea or false defence may be called into aid only to lend assurance to the court."

Section 25 of the Evidence Act postulates that the confession made by an accused before a police officer cannot be proved against him. Section 26 of the Evidence Act stipulates that a confession made by an accused while in police custody cannot be proved against him. However, there is an exception to the rule provided for in by the aforesaid two Sections i.e., 25 and 26 of the Evidence Act; under Section 27 of the Evidence Act, according to which, a confessional statement made before a police officer or while an accused is in police custody, can be proved against him, if the same leads to discovery of an unknown fact or a new fact. In order to apply the exception postulated in Section 27 of the Evidence Act, to the facts of the present case, it is to be seen, whether the confessional statement made by the accused can be said to have led to the discovery of an unknown fact?

A perusal of the evidence of P.Ws.6 and 7, who are said to be the panch witnesses, it reveals that the factual position with regard to the recovery of material objects i.e., M.Os.1 and 2, from the house of the accused, which were shown to have been recovered, was already known to the police much prior to such recovery because of the reason that in the complaint it was already mentioned that while the victim was returned to house, the blouse was missing from her body. It was also mentioned in the complaint that the accused committed sexual assault on the victim girl. In this backdrop, the factual position that recovery of these two material objects would be made by the police was a matter of common knowledge well before the confessional statement was made. In such circumstances, the statement recorded vide Ex.P3 is inadmissible in spite of the mandate stipulated in Section 27 of the Evidence Act, because of the reason that it cannot be said to have been resulted in the discovery of any new fact. However, the learned trial Court on

erroneous assumptions has given the finding that Ex.P3 is admissible in evidence under Section 27 of the Evidence Act.

Section 27 IEA

8. **2022 2 Crimes(SC) 223; 2022 4 Supreme 732; Jafarudheen & Ors. Vs. State of Kerala ; Criminal Appeal Nos. 430-431 of 2015 With Criminal Appeal Nos. 450-451 of 2015, Criminal Appeal No. 959 of 2015; Decided On : 22-04-2022**

Section 27 of the Evidence Act is an exception to Sections 24 to 26. Admissibility under Section 27 is relatable to the information pertaining to a fact discovered. This provision merely facilitates proof of a fact discovered in consequence of information received from a person in custody, accused of an offense. Thus, it incorporates the theory of "confirmation by subsequent facts" facilitating a link to the chain of events. It is for the prosecution to prove that the information received from the accused is relatable to the fact discovered. The object is to utilize it for the purpose of recovery as it ultimately touches upon the issue pertaining to the discovery of a new fact through the information furnished by the accused. Therefore, Section 27 is an exception to Sections 24 to 26 meant for a specific purpose and thus be construed as a proviso.

The onus is on the prosecution to prove the fact discovered from the information obtained from the accused. This is also for the reason that the information has been obtained while the accused is still in the custody of the police. Having understood the aforesaid object behind the provision, any recovery under Section 27 will have to satisfy the Court's conscience. One cannot lose sight of the fact that the prosecution may at times take advantage of the custody of the accused, by other means. The Court will have to be conscious of the witness's credibility and the other evidence produced when dealing with a recovery under Section 27 of the Evidence Act.

9. **1970 0 AIR(SC) 1934; 1970 0 CrLJ 1659; 1969 2 SCC 872; 1969 0 Supreme(SC) 355; Jaffer Husain Dastagir, Vs. State of Maharashtra ; Criminal Appeal No. 84 of 1968, D/-11-9-1969. (THREE JUDGE BENCH)**

Under section 25 of the Evidence Act no confession made by an accused to a police officer can be admitted in evidence against him. An exception to this is however provided by S. 26 which makes a confessional statement made before a Magistrate

admissible in evidence against an accused notwithstanding the fact that he was in the custody of the police when he made the incriminating statement. Section 27 is a proviso to section 26 and makes admissible so much of the statement of the accused which leads to the discovery of a fact deposed to by him and connected with the crime, irrespective of the question whether it is confessional or otherwise. The essential ingredient of the section is that the information given by the accused must lead to the discovery of the fact which is the direct outcome of such information. Secondly, only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused. Thirdly, the discovery of the fact must relate to the commission of some offence. The embargo on statements of the accused before the police will not apply if all the above conditions are fulfilled. If an accused charged with a theft of articles or receiving stolen articles, within the meaning of S. 411 I.P.C. states to the police, I will show you the articles at the place where I have kept them and the articles are actually found there, there can be no doubt that the information given by him led to the discovery of a fact, i.e., keeping of the articles by the accused at the place mentioned. The discovery of the fact deposed to in such a case is not discovery of the articles but the discovery of the fact that the articles were kept by the accused at a particular place. In principle there is no difference between the above statement and that made by the appellant in this case which in effect is that "I will show you the person to whom I have given the diamonds exceeding 200 in number." The only difference between the two statements is that a "named person" is substituted for the place where the article is kept. In neither case are the articles or the diamonds the fact discovered.

10. **1972 0 AIR(SC) 975; 1972 0 CrLJ 606; 1972 1 SCC 249; 1972 0 SCC(Cri) 88; 1971 0 Supreme(SC) 654; H.P. Administration Vs. Om Prakesh ;Criminal Appeal No. 67 of 1969, D/- 7-12-1971.**

A fact discovered within the meaning of Section 27 must refer to a material fact to which the information directly relates. In order to render the information admissible the fact discovered must be relevant and must have been such that it constitutes the information through which the discovery was made. What is the fact discovered in this case? Not the dagger but the dagger hid under the stone which is not known to the police. (See Pulukuri Kottaya v. King Emperor, 74 Ind App 65 . But thereafter can it be

said that the information furnished by the accused that he purchased the dagger from P. W. 11 led to a fact discovered when the accused took the police to the thari of P. W. 11 and pointed him out. A single Bench of the Madras High Court in Public Prosecutor v. India China Lingiah, AIR 1954 Mad 433, and In re Vellingiri, AIR 1950 Mad 613, seems to have taken the view that the information by an accused leading to the discovered of a witness to whom he had given stolen articles is a discovery of a fact with in the meaning of Section 27. In Emperor v. Ramanuja Ayyanger, AIR 1935 Mad 528 a full Bench of three Judges by a majority held that the statement of the accused "I purchased the mattress from this shop and it was this Woman (another witness) that carried the mattress" as proved by the witness who visited him with the police was admissible because the word fact is not restricted to some thing which can be exhibited as a material object. This judgement was before Pulukuri Kattaya s case when as far as the Presidency of Madras was concerned law laid down by the Full Bench of the Court, In Re Athappa Goundan, ILR (1937) Mad 695 prevailed. It held that where the accused s statement connects the fact discovered with the offence and makes it relevant, even though the statement amounts to confession of the offence. it must be admitted because it is that that has led directly to the discovery. This view was overruled by the Privy Council in Pulukari Kottaya s case and this Court had approved the Privy Council case in Ramkishan Mithanlal Sharma v. The State of Bombay, (1955) 1 SCR 903.

In the Full Bench Judgment of Seven Judges in Sukhan v. The Crown, ILR 10 Lah 283 which was approved by the Privy Council in Pulukuri Kotaya s case, 74 Ind App 65 Shaid Lal C.J, as he then was speaking for the majority pointed out that the expression fact as defined by Section 3 of the Evidence Act includes not only the physical fact which can be perceived by the senses but also the psychological fact or mental condition of which any person is conscious and that it is in the former sense that the word used by the Legislature refers to a material and not to a mental fact. It is clear therefor that what should be discovered is the material fact and the information that is admissible is that which has caused that discovery so as to connect the inforation and the fact with each other as the cause and effect. That information which does not distinctly connect with the fact discovered or that portion of the information which merely explains the material thing discovered is not admissible under Section 27 and cannot be proved. As explained by this

Court as well as by the Privy Council, normally Section 27 is brought into operation where a person in police custody produces from some place of concelment some object said to be connected with the crime of which the informent is the accused. The concealment of the fact which in not known to the polic is what is discovered by the information and lends assurance that the information was true. No witness with whom some material fact, such as the weapon if murder, stolen property or other incriminating article is not hidden, sold or kept and which is unknown to the police can be said to be discovered as a consequence of the information furnished by the accused. These examples however are only by way of illustation and are exhaustive. What makes the information leading to the discovery of the witness admissible is the discovery from him of the thing sold to him or hidden or kept with him which the police did not know until the information was furished to them by the accused. A witness cannot be said to be discovered if nothing is to be found or recovered from him as a consequence of the information furnished by the accused and the information which disclosed the identity of the witness will not be admissible. But even apart from the admissibility of the information under Section 27, the evidence of the Investigating Officer and the panchas that the accused had taken them to P. W. 11 and pointed him out and as corroborated by P. W. 11 himself would be asmissible under Section 8 of the Evidence Act as conduct of the accused.

Further having held this it nonetheless said that there was no injunction against the same set of witnesses being present at the successive enquiries if nothing could be urged against them. In our view the evidence relating to recoveries is not similar to that contempaled under Sec. 103 of the Criminal Procedure Code where searches are required to be made in the presence of two or more inhabitants of the locality in which the place to be serached is situate. In an investigation under section 157 the recoveries could be proved even by the solitary evidence of the Investigating Officer if his evidence could otherwise be believed. We cannot as a matter of law or practice lay down that where recoveries have to be effected from different places on the information furnished by the accused different sets of persons should be called in to witness them.

11. 1999 0 AIR(SC) 1293; 1999 1 ALD(Cri)(SC) 715; 1999 0 CrLJ 2025; 1999 4 SCC 370; 1999 0 SCC(Cri) 539; 1999 3 Supreme

230; State of Himachal Pradesh Vs. Jeet Singh; Criminal Appeal No. 263 of 1991; Decided on 15-3-1999

It must have been during the interrogation of accused that he would have made the disclosures. It is not necessary that other witnesses should be present when the accused was interrogated by the Investigating Officer. On the contrary, investigating officers used to interrogate accused persons without the presence of others. So the mere fact that any witness to the recovery did not overhear the disclosure statements of the accused is hardly sufficient to hold that no such disclosures were made by the accused.

There is nothing in Section 27 of the Evidence Act which renders the statement of the accused inadmissible if recovery of the articles was made from any place which is "open or accessible to others". It is a fallacious notion that when recovery of any incriminating article was made from a place which is open or accessible to others it would vitiate the evidence under Section 27 of the Evidence Act. Any object can be concealed in places which are open or accessible to others. For example, if the article is buried on the main roadside or if it is concealed beneath dry leaves lying on public places or kept hidden in a public office, the article would remain out of the visibility of others in normal circumstances. Until such article is disintered its hidden state would remain unhampered. The person who hid it alone knows where it is until he discloses that fact to any other person. Hence the crucial question is not whether the place was accessible to others or not but whether it was ordinarily visible to others. If it is not, then it is immaterial that the concealed place is accessible to others.

No doubt it is a sound principle to remember that every criminal act was done with a motive but its corollary is not that no criminal offence would have been committed if prosecution has failed to prove the precise motive of the accused to commit it. When the prosecution succeeded in showing the possibility of some ire for the accused towards the victim the inability to further put on record the manner in which such ire would have swelled up in the mind of the offender to such a degree as to impel him to commit the offence cannot be construed as a fatal weakness of the prosecution. It is almost an impossibility for the prosecution to unravel the full dimension of the mental disposition of an offender towards the person whom he offended.

12. **1994 0 AIR(SC) 2420; 1994 2 Crimes(SC) 1027; 1994 0 CrLJ 3271; 1995 Supp1 SCC 80; 1995 0 SCC(Cri) 60; 1994 0 Supreme(SC) 629; Suresh Chandra Bahri Vs. State of Bihar; Criminal Appeals Nos. 329 with 159 and 160 of 1992; D/- 13-7-1994.**

It is true that no disclosure statement of Gurbachan Singh who is said to have given information about the dumping of the dead body under the hillock of Khadgraha dumping ground was recorded but there is positive statement of Rajeshwar Singh, PW 59, Station House Officer of Chutia Police Station who deposed that during the course of investigation Gurbachan Singh led him to Khadgraha Hillock along with Inspector Rangnath Singh and on pointing out the place by Gurbachan Singh he got that place unearthed by labourers where a piece of blanket, pieces of saree and Rassi were found which were seized as per seizure memo Ext. 5. He further deposed that he had taken two witnesses along with him to the place where these articles were found. Rajeshwar Singh, PW 59 was cross-examined with regard to the identity of the witness Nand Kishore who is said to be present at the time of recovery and seizure of the articles as well as with regard to the identity of the articles seized vide paragraphs 18, 21 and 22 of his deposition but it may be pointed out that no cross-examination was directed with regard to the disclosure statement made by the appellant Gurbachan Singh or on the point that he led the police party and others to the hillock where on his pointing out, the place was unearthed where the aforesaid articles were found and seized. It is true that no public witness was examined by the prosecution in this behalf but the evidence of Rajeshwar Singh, PW 59 does not suffer from any doubt or infirmity with regard to the seizure of these articles at the instance of the appellant Gurbachan Singh which on T.I. parade were found to be the articles used in wrapping the dead body of Urshia.

The provisions of Section 27 of the Evidence Act are based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true and consequently the said information can safely be allowed to be given in evidence because if such an information is further fortified and confirmed by the discovery of articles or the instrument of crime and which leads to the belief that the information about the confession made as to the articles of crime cannot be false.

13. **2010 0 AIR(SC) 1007; 2010 1 ALD(Cri)(SC) 857; 2010 3 SCC 56; 2010 2 SCC(Cri) 26; 2010 2 Supreme 47; Vikram Singh & Ors. Vs. State of Punjab; Criminal Appeal Nos. 1396-97 of 2008; Decided on : 25-01-2010**

    A bare reading of the provision would reveal that a "person must be accused of any offence" and that he must be "in the custody of a police officer" and it is not essential that such an accused must be under formal arrest.

14. **2005 0 AIR(SC) 3820; 2005 3 Crimes(SC) 87; 2005 0 CrLJ 3950; 2005 11 SCC 600; 2005 0 SCC(Cri) 1715; 2005 5 Supreme 414; State (N.C.T. of Delhi) Vs. Navjot Sandhu @ Afsan Guru; Criminal Appeal Nos. 373-375 of 2004 With Criminal Appeal Nos. 376-378, 379-380 and 381 of 2004; All Decided on 4-8-2005**

    There is one more point which we would like to discuss i.e. whether pointing out a material object by the accused furnishing the information is a necessary concomitant of Section 27. We think that the answer should be in the negative. Though in most of the cases the person who makes the disclosure himself leads the Police Officer to the place where an object is concealed and points out the same to him, however, it is not essential that there should be such pointing out in order to make the information admissible under Section 27. It could very well be that on the basis of information furnished by the accused, the Investigating Officer may go to the spot in the company of other witnesses and recover the material object. By doing so, the Investigating Officer will be discovering a fact viz., the concealment of an incriminating article and the knowledge of the accused furnishing the information about it. In other words, where the information furnished by the person in custody is verified by the Police Officer by going to the spot mentioned by the informant and finds it to be correct, that amounts to discovery of fact within the meaning of Section 27. Of course, it is subject to the rider that the information so furnished was the immediate and proximate cause of discovery. If the Police Officer chooses not to take the informant-accused to the spot, it will have no bearing on the point of admissibility under Section 27, though it may be one of the aspects that goes into evaluation of that particular piece of evidence.

15. **1976 0 AIR(SC) 483; 1976 0 CrLJ 481; 1976 1 SCC 828; 1976 0 SCC(Cri) 199; 1975 0 Supreme(SC) 338; Mohmed Inayatullah**

Vs. The State of Maharashtra; Criminal Appeal No. 131 of 1971; Decided on 9-9-1975.

The expression "Provided that" together with the phrase "whether it amounts to a confession or not" shows that the section is in the nature of an exception to the preceding provisions particularly Sections 25 and 26. It is not necessary in this case to consider if this section qualifies, to any extent, Sec. 24, also. It will be seen that the first condition necessary for bringing this section into operation is the discovery of a fact, albeit a relevant fact, in consequence of the information received from a person accused of an offence. The second is that the discovery of such fact must be deposed to. The third is that at the time of the receipt of the information the accused must be in police custody. The last but the most important condition is that only "so much of the information" as relates distinctly to that fact thereby discovered is admissible. The rest of the information has to be excluded. The word "distinctly" means "directly", "indubitably" "strictly", "unmistakably". The word has been advisedly used to limit and define the scope of the provable information. The phrase "distinctly" relates "to the fact thereby discovered" (sic) (and?) is the linchpin of the provision. This phrase refers to that part of the information supplied by the accused which is the direct and immediate cause of the discovery. The reason behind this partial lifting of the ban against confessions and statements made to the police, is that if a fact is actually discovered in consequence of information given by the accused, it affords some guarantee of truth of that part, and that part only, of the information which was the clear, immediate and proximate cause of the discovery. No such guarantee or assurance attaches to the rest of the statement which may be indirectly or remotely related to the fact discovered.

16. **1956 0 AIR(SC) 217; 1957 0 ALT(SC) 92; 1956 0 CrLJ 426; 1955 0 Supreme(SC) 122; Aher Raja Khima Vs. State of Saurashtra; Criminal Appeal No. 64 of 1955; 22nd December 1955;**

The presumption that a person acts honestly applies as much in favour of a police officer as of other persons, and it is not a judicial approach to distrust and suspect him without good grounds therefor. Such an attitude could do neither credit to the magistrate nor good to the public. It can only run down the prestige of the police administration.

17. **2011 1 KLT 8; 2010 0 Supreme(Ker) 700; Ajayan Alias Baby vs. State of Kerala, Represented by the Public Prosecutor, High Court of Kerala, Ernakulam; Crl.Appeal Nos.1204 of 2006 & 1429 of 2006; Decided on : 07-12-2010 (THREE JUDGE BENCH)**

authorship of concealment is not sine qua non to make information received from a person accused of an offence while in the custody of the Police Officer admissible under Sec. 27 of the Act and that if the information as deposed to by the Investigating Officer is otherwise admissible in evidence it would not become inadmissible solely for the reason that the information deposed by the Police Officer does not reveal authorship of concealment. In other words, the view taken in the decisions of this Court that authorship of concealment is sine qua non for admissibility of the statement of the accused under Sec.27 of the Act is not correct in law

18. **Golden Satheesan @ Satheesan and others v. State of Kerala (2012 KHC 25)** wherein while dealing with Sec.3 of the Evidence Act it has been held that the testimony of a highly interested, inimical, partisan and tutored witness describing the occurrence with meticulous details in a parrot like manner makes the evidence suspicious.

19. **1979 0 AIR(SC) 1262; 1979 0 CrLJ 1075; 1979 4 SCC 346; 1979 0 SCC(Cri) 982; 1979 0 Supreme(SC) 40; Bahadul Vs. State of Orissa; Criminal Appeal No. 199 of 1972; D/- 16-1-1979**

As regards the production of the tangia by the accused before the police, the High Court seems to have relied on it as admissible under Section 8 of the Evidence Act. As there is nothing to show that the appellant had made any statement under S. 27 of the Evidence Act relating to the recovery of this weapon hence the factum or recovery thereof cannot be admissible under Section 27 of the Evidence Act. Moreover, what the accused had done was merely to take out the axe from beneath his cot. There is nothing to show that the accused had concealed it at a place which was known to him alone and no one else other than the accused had knowledge of it. In these circumstances the mere production of the tangia would not be sufficient to convict the appellant

20. **1979 0 AIR(SC) 400; 1979 0 CrLJ 329; 1979 3 SCC 90; 1979 0 SCC(Cri) 656; 1978 0 Supreme(SC) 365; Prakash Chand Vs. State (Delhi Admn.), Respondent; Criminal Appeal No. 193 of 1974, D/- 20-11-1978.**

There is a clear distinction between the conduct of a person against whom an offence is alleged, which is admissible under Section 8 of the Evidence Act, if such conduct is influenced by any fact in issue or relevant fact and the statement made to a Police Officer in the course of an investigation which is hit by Section 162 Criminal Procedure Code. What is excluded by Section 162 Criminal Procedure Code is the statement made to a Police Officer in the course of investigation and not the evidence relating to the conduct of an accused person (not amounting to a statement) when confronted or questioned by a Police Officer during the course of an investigation. For example, the evidence of the circumstance, simpliciter, that an accused person led a Police Officer and pointed out the place where stolen Articles or weapons which might have been used in the commission of the offence were found hidden, would be admissible as conduct, under Section 8 of the Evidence Act, irrespective of whether any statement by the accused contemporaneously with or antecedent to such conduct falls within the purview of section 27 of the Evidence Act (vide Himachal Pradesh Administration v. Om Prakash (AIR 1972 SC 975)).

First in point of time

21. **1994 2 Crimes(SC) 904; 1994 5 SCC 152; 1994 0 SCC(Cri) 1376; 1994 0 Supreme(SC) 549; Sukhvinder Singh & Ors. Vs. State of Punjab; Criminal Appeal No.1 of 1994; Decided on 12.5.1994**

during the interrogation by SI Amar Singh, Sukhvinder Singh appellant made a disclosure statement to the effect that he alongwith others had concealed the dead body of the Varun Kumar in the stack of hay in the room and that he could get the same recovered. His disclosure statement Ex. P. W. 10/B was accordingly recorded which was signed by him and attested by the Panch witnesses. Except for the discovery of the dead body of Varun Kumar on the basis of the disclosure statement of Sukhvinder Singh, Ex. P.W. 10/B, no other portion of the statement of Sukhvinder Singh implicating himself and others with the commission of the crime is admissible in evidence. After the disclosure statement was made by Sukhvinder Singh

disclosing as to where the dead body of Varun had been concealed and from where it could be recovered, the recording of the disclosure statements of Sukhdev Pal and Puran Chand Ex. P.W. 10/C and Ex. P.W. 10/D was a wholly impermissible exercise and a obvious attempt to Jape in Sukhdev Pal and Puran Chand with the aid of Section 27 of the Evidence Act. Since, the information had already been given by Sukhdev Singh, appellant in his disclosure statement Ex. P.W. 10/B, the two subsequent statements Ex. P.W. 10/C and Ex. P.W. 10/D were not admissible in evidence because at the best they were leading to the "re-discovery. It has been admitted by P.W. 14 that the disclosure statement, Ex. P.W. 10/B, made by Sukhvinder Singh was the first in point of time and that he had disclosed where the dead body had been concealed and that he could point out the place and get it recovered. The Investigating Officer should have immediately acted upon the disclosure statement Ex. P.W. 10/B, rather than wait and record two more disclosure statements, as if the authenticity of recovery of dead body could be achieved by the mere number of disclosure statements luring to the discovery of one and the same fact. In the face of the Admission of P.W. 14 as noticed above, it is obvious that the so-called disclosure statements of Sukhdev Pal and Puran Chand Ex. P.W. 10/C and Ex. P.W. 10/D were not admissible in evidence

22. **1988 1 KLT 247; 1987 0 Supreme(Ker) 579; THAMPI SEBASTIAN Vs. STATE OF KERALA; Case No : Crl.A. No. 295 of 1984, 513 of 1987; Decided On : 11/26/1987**
it was held that there is no such thing as "joint discovery" viz. discovery made in consequence of information given by more than one accused person, it is only the information first given which is admissible and where it cannot be ascertained which of the accused first gave the information, the alleged discovery cannot be proved against any one of the accused.

23. **2005 0 AIR(SC) 3820; 2005 3 Crimes(SC) 87; 2005 0 CrLJ 3950; 2005 11 SCC 600; 2005 0 SCC(Cri) 1715; 2005 5 Supreme 414; State (N.C.T. of Delhi) Vs. Navjot Sandhu @ Afsan Guru; Criminal Appeal Nos. 373-375 of 2004 With Criminal Appeal Nos. 376-378, 379-380 and 381 of 2004; All Decided on 4-8-2005**
Another case which needs to be noticed is the case of Ramkishan vs. Bombay State [AIR 1955 SC 104]. The admissibility or otherwise of joint disclosures did not directly

come up for consideration in that case. However, while distinguishing the case of Gokuldas Dwarkadas decided by Bombay High Court, a passing observation was made that in the said case the High Court "had rightly held that a joint statement by more than one accused was not contemplated by Section 27". We cannot understand this observation as laying down the law that information almost simultaneously furnished by two accused in regard to a fact discovered cannot be received in evidence under Section 27. It may be relevant to mention that in the case of Lachhman Singh vs. The State [1952 SCR 839] this Court expressed certain reservations on the correctness of the view taken by some of the High Courts discountenancing the joint disclosures.

Same Crime or a Different Crime.

24. 1997 1 ALT(Cri)(SC) 588; 1997 10 SCC 675; 1997 0 SCC(Cri) 1032; 1997 1 Supreme 405; State of Rajasthan Vs. Bhup Ram; Criminal Appeal No. 377 of 1996; Decided on 13-1-1997

The conditions prescribed in Section 27 for unwrapping the cover of ban against admissibility of statement of the accused to the police have been satisfied. They are: (1) A fact should have been discovered in consequence of information received from the accused; (2) He should have been accused of an offence; (3) He should have been in the custody of a police officer when he supplied the information; (4) The fact so discovered should have been deposed to by the witness. If those conditions are satisfied, that part of the information given by the accused which led to such discovery gets denuded of the wrapper of prohibition and it becomes admissible in evidence. It is immaterial whether the information was supplied in connection with the same crime or a different crime. Here the fact discovered by the police is not Article 4 - pistol, but that the accused had buried the said pistol and he knew where it was buried. Of course, discovery of said fact became complete only when the pistol was recovered by the police.

In dying declaration recorded by judicial magistrate is reliable-There is no legal hurdle in basing a conviction on it even without any supporting material-When doctor and judicial magistrate stated that deceased was conscious when statement was made-When deceased gave her statement in her own language-dying declaration would not vitiate merely because it was recorded in a different language-Dying declaration not bad merely because

magistrate did not record it in the form of questions and answers-What matters is substance and not form-Ganpat Mahadeo Mani s case, 1993 Supp.(2) SCC 242

NO PANCH WITNESS REQUIRED FOR CONFESSION PANCHNAMA

25. 2001 1 ALD(Cri)(SC) 54; 2001 1 Crimes(SC) 176; 2001 0 CrLJ 504; 2001 1 SCC 652; 2001 0 SCC(Cri) 248; 2000 7 Supreme 728; State Govt. of NCT of Delhi Vs. Sunil & Anr.; Criminal Appeal Nos. 1119-1120 of 1998; Decided on 29-11-2000

there is no requirement either under Section 27 of the Evidence Act or under Section 161 of the Code of Criminal Procedure, to obtain signature of independent witnesses on the record in which statement of an accused is written. The legal obligation to call independent and respectable inhabitants of the locality to attend and witness the exercise made by the police is cast on the police officer when searches are made under Chapter VII of the Code. Section 100(5) of the Code requires that such search shall be made in their presence and a list of all things seized in the course of such search and of the places in which they are respectively found, shall be prepared by such officer or other person "and signed by such witnesses". It must be remembered that search is made to find out a thing or document which the searching officer has no prior idea where the thing or document is kept. He prowls for it either on reasonable suspicion or on some guess work that it could possibly be ferreted out in such prowling. It is a stark reality that during searches the team which conducts search would have to meddle with lots of other articles and documents also and in such process many such articles or documents are likely to be displaced or even strewn helter-skelter. The legislative idea in insisting on such searches to be made in the presence of two independent inhabitants of the locality is to ensure the safety of all such articles meddled with and to protect the rights of the persons entitled thereto. But recovery of an object pursuant to the information supplied by an accused in custody is different from the searching endeavour envisaged in Chapter VII of the Code. This Court has indicated the difference between the two processes in the Transport Commissioner, Andhra Pradesh, Hyderabad & Anr. v. S. Sardar Ali & Ors.1. Following observations of Chinnappa Reddy, J. can be used to support the said legal proposition :

"Section 100 of the Criminal Procedure Code to which reference was made by the counsel deals with searches and not seizures. In the very nature of things when property is seized and not recovered during a search, it is not possible to comply with the provisions of sub-section (4) and (5) of Section 100 of the Criminal Procedure Code. In the case of a seizure [under the Motor Vehicles Act], there is no provision for preparing a list of the things seized in the course of the seizure for the obvious reason that all those things are seized not separately but as part of the vehicle itself."

Hence it is a fallacious impression that when recovery is effected pursuant to any statement made by the accused the document prepared by the Investigating Officer contemporaneous with such recovery must necessarily be attested by independent witnesses. Of course, if any such statement leads to recovery of any article it is open to the Investigating Officer to take the signature of any person present at that time, on the document prepared for such recovery. But if no witness was present or if no person had agreed to affix his signature on the document, it is difficult to lay down, as a proposition of law, that the document so prepared by the police officer must be treated as tainted and the recovery evidence unreliable. The court has to consider the evidence of the Investigating Officer who deposed to the fact of recovery based on the statement elicited from the accused on its own worth.

We feel that it is an archaic notion that actions of the police officer should be approached with initial distrust. We are aware that such a notion was lavishly entertained during British period and policemen also knew about it. Its hang over persisted during post-independent years but it is time now to start placing at least initial trust on the actions and the documents made by the police. At any rate, the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law the presumption should be the other way around. That official acts of the police have been regularly performed is a wise principle of presumption and recognised even by the legislature. Hence when a police officer gives evidence in court that a certain article was recovered by him on the strength of the statement made by the accused it is open to the court to believe the version to be correct if it is not otherwise shown to be unreliable. It is for the accused, through cross-examination of witnesses or through any other materials, to show that the evidence of the police officer iseither unreliable or at least unsafe to be acted upon in a particular case.

If the court has any good reason to suspect the truthfulness of such records of the police the court could certainly take into account the fact that no other independent person was present at the time of recovery. But it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions.

26. **1968 0 CrLJ 1362; 1967 0 Supreme(Ker) 258; Narayaua Piliai Vasudevan Pillai and another v. State of Kerala; Criminal Appeal No. 60 of 1967; Decided On : 20 -12 -1967**

the accused told the police that he had thrown two material objects into a canal at a certain spot. When the police went to that place, information was received that these objects were discovered from that spot by another person, who took them up and gave them to a third person. The police recovered them from the possession of the last mentioned person. The Court held that the information received from the accused led to the discovery of the material objects, and was admissible in evidence under S. 27 of the Evidence Act.

The law has thus made a classification of accused persons into two: (1) those two have the danger brought home to them by detention on a charge; and (2) those who are yet free. In the former category are also those persons who surrender to the custody by words or action. The protection given to these two classes is different. In the case of persons belonging to the first category the law has ruled that their statements are not admissible, and in the case of the second category, only that portion, of the statement is admissible as is guaranteed by the discovery of a relevant fact unknown before the statement to the investigating authority. That statement may even be confessional in nature, as when the person in custody says: "I pushed him down such and such mineshaft", and the body of the victim is found as a result, and it can be proved that his death was due to injuries received by a fall down the mineshaft.

27. **1960 0 AIR(SC) 1125; 1960 0 CrLJ 1504; 6th May, 1960;. State of U.P., Vs. Deoman Upadhyaya, Attorney-General of India, Criminal Appeal No. 1 of 1960. (CONSTITUTION BENCH)**

It is argued that there is denial of equal protection of the law, because if the statement were made before custody began, it

would be inadmissible. Of course, the making of the statement as also the stage at which it is made depends upon the person making it. The law is concerned in seeing fairplay, and this is achieved by insisting that an unguarded statement should not be receivable. The need for caution is there, and this caution is very forcefully brought home to an accused, when he is accused of an offence and is in the custody of the police. There is thus a classification which is reasonable as well as intelligible, and it subserves a purpose recognised now for over two centuries. When such an old and time-worn rule is challenged by modern notions, the bases of the rule must be found. When this is done, as I have attempted to do, there is no doubt left that the rule is for advancement of justice with protection both to a suspect not yet arrested and to an accused in custody. There is ample protection to an accused, because only that portion of the statement is made admissible against him which has resulted in the discovery of a material fact otherwise unknown to the police. I do not, therefore, regard this as evidence of unequal treatment.

28. 2007 12 SCC 230; 2008 2 SCC(Cri) 264; 2006 9 Supreme 740; Aloke Nath Dutta & Ors. Vs. State of West Bengal; Criminal Appeal Nos. 867-868 of 2005 With Criminal Appeal No. 875 OF 2005; Decided on 12-12-2006

In Navjot Sandhu @ Afsan Guru (supra), this Court observed :

"32. As to what should be the legal approach of the court called upon to convict a person primarily in the light of the confession or a retracted confession has been succinctly summarised in Bharat v. State of U.P. Hidayatullah, C.J., speaking for a three-Judge Bench observed thus: (SCC p. 953, para 7)

"Confessions can be acted upon if the court is satisfied that they are voluntary and that they are true. The voluntary nature of the confession depends upon whether there was any threat, inducement or promise and its truth is judged in the context of the entire prosecution case. The confession must fit into the proved facts and not run counter to them. When the voluntary character of the confession and its truth are accepted, it is safe to rely on it. Indeed a confession, if it is voluntary and true and not made under any inducement or threat or promise, is the most patent piece of evidence against the maker. Retracted confession, however, stands on a slightly different footing. As the Privy Council once stated, in India it is the rule to find a confession and to find it retracted later. A court may take into account the retracted confession, but it must look for the reasons for the

making of the confession as well as for its retraction, and must weigh the two to determine whether the retraction affects the voluntary nature of the confession or not. If the court is satisfied that it was retracted because of an afterthought or advice, the retraction may not weigh with the court if the general facts proved in the case and the tenor of the confession as made and the circumstances of its making and withdrawal warrant its user. All the same, the courts do not act upon the retracted confession without finding assurance from some other sources as to the guilt of the accused. Therefore, it can be stated that a true confession made voluntarily may be acted upon with slight evidence to corroborate it, but a retracted confession requires the general assurance that the retraction was an afterthought and that the earlier statement was true…"

[See also Puran (supra), Bharat v. State of UP (1971) 3 SCC 950, Kora Ghasi v. State (1983) 2 SCC 251, Preetam v. State of MP (1996) 10 SCC 432, Bhagwan Singh v. State of MP (2003) 3 SCC 21].

In Ram Parkash v. The State of Punjab [1959 SCR 1219], it was held :

"That a voluntary and true confession made by an accused though it was subsequently retracted by him, can be taken into consideration against a co-accused by virtue of s. 30 of the Indian Evidence Act, but as a matter of prudence and practice the court should not act upon it to sustain a conviction of the co-accused without full and strong corroboration in material particulars both as to the crime and as to his connection with that crime.

The amount of credibility to be attached to a retracted confession would depend upon the circumstances of each particular case."

29. **2012 2 ALT(Cri)(SC) 318; 2010 9 SCC 567; 2010 3 SCC(Cri) 1402; 2010 0 Supreme(SC) 796; C. Muniappan & Others Vs. State of Tamil Nadu; CRIMINAL APPEAL NOS. 127-130 OF 2008 WITH CRIMINAL APPEAL NOS.1632-1634 OF 2010 (Arising out of SLP(Crl.) Nos. 1482-1484 of 2008); Decided on : 30-08-2010**

it is evident from the above that only the admissible part of extra-judicial confessional statement can be exhibited. The statement as a whole, if exhibited and relied upon by the prosecution, leads to the possibility of the court getting prejudiced against the accused. Thus, it has to be avoided.

the law can be summarised to the effect that the evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be used by the prosecution or the defence.

It is settled proposition of law that even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be disregarded. After exercising care and caution and sifting through the evidence to separate truth from untruth, exaggeration and improvements, the court comes to a conclusion as to whether the residuary evidence is sufficient to convict the accused. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution's witness. As the mental abilities of a human being cannot be expected to be attuned to absorb all the details of the incident, minor discrepancies are bound to occur in the statements of witnesses

the law can be summarized to the effect that there must be a complaint by the pubic servant whose lawful order has not been complied with. The complaint must be in writing. The provisions of Section 195 Cr.PC are mandatory. Non-compliance of it would vitiate the prosecution and all other consequential orders. The Court cannot assume the cognizance of the case without such complaint. In the absence of such a complaint, the trial and conviction will be void ab initio being without jurisdiction.

30. **1980 0 CrLJ 31; 1979 0 KLT 337; 1979 0 Supreme(Ker) 56; M.C.Sekharan And Others Vs. State Of Kerala; Criminal Appeals Nos. 242 of 1978 and 350 of 1978; Decided On : 03/02/1979**

The information contemplated by the section should he one which should have at the giving end the accused and at the receiving end a police officer. If on such information given and received a recovery is made section 27 makes it admissible. The "fruit of the poisoned tree" is allowed to be proved to that extent. There is absolutely nothing in the section to indicate that the person who discovers the incriminating fact should be the identical person who received the information. To come under the section it is sufficient if discovery, by whomsoever it may be, is made consequent on information given by the accused to a police officer. In short for that section to apply the person who received the information and the person who made the discovery need not be the same. The recovery of the dead body in the

present case is one perfectly in accordance with the provision in section 27 of the Evidence Act.

31. In **C.B.I., Special Investigation Cell I, New Delhi v. Anupam J. Kulkarni [JT 1992 (3) SC 366 = 1992 (3) SCC 141]** this Court considered the ambit and scope of Section 167 Criminal Procedure Code. and held that there cannot be any detention in police custody after the expiry of the first 15 days even in a case where some more offences, either serious or otherwise committed by an accused in the same transaction come to light at a later stage. The Bench, however clarified that the bar did not apply if the same arrested accused was involved in some other or different case arising out of a different transaction, in which event the period of remand needs to be considered in respect to each of such cases.

SIGNATURE OF ACCUSED ON CONFESSION STATEMENT

32. 1995 0 AIR(SC) 2345; 1995 0 CrLJ 3992; 1997 0 SCC(Cri) 651; 1995 0 Supreme(SC) 577; Jackaran Singh Vs. State of Punjab; Criminal Appeal No. 472 of 1985; Decided on 20-4-1995.

The absence of the signatures or the thumb impression of an accused on the disclosure statement recorded under Section 27 of the Evidence Act detracts materially from the authenticity and the reliabillity of the disclosure statement.

33. 2003 0 CrLJ 2372; 2003 1 MLJ(Cri) 520; 2003 0 Supreme(Mad) 143; Natarajan Vs. Union Territory of Pondicherry; CRIMINAL APPEAL NO.655 OF 1998; Decided On : 03 February 2003

However, it is noticed that the observation regarding the above aspect made by the Supreme Court in the Jaskaran case reported in 1997 S.C.C.(Cri) 651 = 1995 Cri.L.J.3992 = 1995 AIR SCW 3485 = AIR 1995 S.C.2345 has been reviewed in a suo moto review petition and the very same Bench of the Supreme Court has held that the said observation is erroneous.

The main judgment in the above case was rendered by the Supreme Court on 25.4.1995. The said judgment was reported in 1995 Cri.L.J.3992 and AIR 1995 S.C.2345. After publication of the judgment, the Supreme Court suo motu found that the above observation is erroneous. Therefore, by the order dated 24.4.1996 directed the Registry to post before the same Bench

for suo-motu review on 25.4.1996. The said order passed by the Supreme Court dated 24.4.1996 is as follows:

"We have come across the judgment in Criminal Appeal No.472 of 1985 decided on April 25, 1995 reported in 1995 Cri.L.J.3992. Some of the observations made in para 8 of the said judgment appear to be erroneous. Let the file of the case be put up for suo-moto review before this Bench tomorrow i.e.25-4-96.

34. **2017 0 AIR(SC) 279; 2017 1 ALD(Cri)(SC) 990; 2017 1 ALT(Cri)(SC) 261; 2017 4 Crimes(SC) 546; 2017 0 CrLJ 988; 2017 3 SCC 760; 2017 2 SCC(Cri) 262; 2017 1 Supreme 303; KISHORE BHADKE Vs. STATE OF MAHARASHTRA; Criminal Appeal No. 467 of 2010 With Criminal Appeal No. 854 of 2010 & Criminal Appeal No. 11 of 2015; Decided On : 03-01-2017**

When more than one accused Nos.2 and 3 disclose, one after another, the spot of disposal of body of deceased and the dead body is discovered only after accused Nos.2 and 3 were taken together to the spot; such fact disclosed by them, and discovery made at their instance, would be admissible against all the accused.

Signature of accused on recovery Panchnama is not required under any provision of law.

35. **1953 0 AIR(SC) 131; 1953 0 CrLJ 668; 1953 0 Supreme(SC) 5; 19th January 1953; Smt. Kalawati and another Vs. The State of H.P; Criminal Appeals Nos. 73 and 74 of 1952 (THREE JUDGE BENCH)**

No person accused of a crime is bound to make a confession, and if there is any compulsion or threat, it has to be ruled out as irrelevant and inadmissible. Sub-section (3) of Art. 20 does not apply at all to a case where the confession is made without any inducement, threat or promise. It is true that a retracted confession has only little value as the basis for a conviction, and that the confession of one accused is not evidence against a co-accused tried jointly for the same offence, but can only be taken into consideration against him. This deals with its probative value and has nothing to do with any repugnancy to the Constitution.

It was also urged that as sub-cl. (2) of Art. 20 of the Constitution provides that no person shall be prosecuted and punished for the same offence more than once, the Government cannot have any right of appeal against an acquittal. If there is no punishment for the offence as a result of the prosecution, the sub-section has no application; and secondly, an appeal against an acquittal

wherever such is provided by the procedure is in substance a continuation of the prosecution.

36. 1964 0 AIR(SC) 1184; 1964 0 CrLJ 344; 1964 0 Supreme(SC) 26; 3rd February, 1964; 1. Haricharan Kurmi (In Cr. A. No. 208 of 1963) 2. Jogia Hajam (In Cr. A. No. 208 of 1963) 2. Jogia Hajam (In Cr. A. No. 209 of 1963), Vs. State of Bihar (In both the Appeals); Criminal Appeals Nos. 208 and 209 of 1963. Criminal P.C. (5 of 1898), S.367. Cri. Appeals Nos. 554 and 556 of 1961 (Pat), Reversed.

The question about the part which a confession made by a co-accused person can play in a criminal trial has to be determined in the light of the provisions of S. 30 of the Act. Section 30 provides that 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. The basis on which this provision is founded is that if a person makes confession implicating himself that any suggest that the maker of the confession is speaking the truth. Normally, if a statement made by an accused person is found to be voluntary and it amounts to a confession in the sense that it implicates the maker, it is not likely that the maker would implicate himself untruly, and so, S. 30 provides that such a confession may be taken into consideration even against a co-accused who is being tried along with the maker of the confession. There in no doubt that a confession made voluntarily by an accused person can be used against the maker of the confession, though as a matter of prudence criminal courts generally require some corroboration to the said confession particularly if it has been retracted. With that aspect of the problem, however, we are not concerned in the present appeals. When S. 30 provides that the confession of a co-accused may be taken into consideration, what exactly is the scope and effect of such taking into consideration is precisely the problem which has been raised in the present appeals. It is clear that the confession mentioned in S. 30 is not evidence under S. 3 of the Act Section 3 defines "evidence" as meaning and including.

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; such statements are called oral evidence;

(2) all documents produced for the inspection of the Court;

11a. Such documents are called documentary evidence. Technically construed, this definition will not apply to a confession. Part (1) of the definition refers to oral statements which the court permits or requires to be made before it; and clearly a confession made by an accused person is not such a statement; it is not made or permitted to be made before the court that tries the criminal case. Part (2) of the definition refers to documents produced for the inspection of the court; and a confession cannot be said to fall even under this part. Even so S. 30 provides that a confession may be taken into consideration not only against its maker, but also against a co-accused person; that is to say, though such a confession may not be evidence as strictly defined by S. 3 of the Act, it is an element which may be taken into consideration by the criminal court and in that sense, it may be described as evidence in a non-technical way. But it is significant that like other evidence which is produced before the Court, it is not obligatory on the court to take the confession into account. When evidence as defined by the Act is produced before the Court it is the duty of the Court to consider that evidence. What weight should be attached to such evidence, is a matter in the discretion of the Court. But a Court cannot say in respect of such evidence that it will just not taken that evidence into account. Such an approach can, however, be adopted by the Court in dealing with a confession, because S. 30 merely enables the Court to take the confession into account.

37. 2022 1 Crimes(SC) 1; 2022 1 Supreme 614; Jaikam Khan Vs. State of Uttar Pradesh; Criminal Appeal Nos. 434-436, 437-439, 440-441, 442 of 2020; Decided On : 15-12-2021

We are amazed by the manner in which the High court has dealt with the present matter. It will be apposite to refer to the following observations of the High Court with regard to the recovery of clothes:

"It has been urged that in order to prove the recovery of the clothes, no independent witness was produced. It is correct that the prosecution only produced the formal witness to prove the recovery, but on the other hand the disclosure of this fact about the room having been opened by the keys provided by Hina, the daughter of accused Momin was not rebutted by the defence which could have been done by producing Hina in order to deny any such recovery."

The finding is not only contrary to the well settled law interpreting Section 27 of the Evidence Act but also attempts to put a burden

on the accused, which does not shift unless prosecution has proved the case beyond reasonable doubt.

Merely because witnesses are interested and related witnesses, it cannot be a ground to disbelieve their testimony – However, testimony of such witnesses has to be scrutinised with due care and caution.

Only after prosecution discharges its burden of proving case beyond reasonable doubt, burden would shift on accused.

38. **2022 0 AIR(SC) 2726; 2022 2 Crimes(SC) 243; 2022 5 Supreme 76; Ravinder Singh @ Kaku Vs. State of Punjab; Criminal Appeal No.1307 OF 2019 [Arising Out of Special Leave Petition [Crl] No. 9431 OF 2011] With Criminal Appeal Nos. 13081311 OF 2019 (Arising Out of Special Leave Petition [Crl] NOs. 96319634 of 2012); Decided On : 04-05-2022**

The uncertainty of whether Anvar P.V. v. P.K. Basheer & Ors, (2014) 10 SCC 473 occupies the filed in this area of law or whether Shafhi Mohammad v. State of Himachal Pradesh, (2018) 2 SCC 801 lays down the correct law in this regard has now been conclusively settled by this court by a judgement dated 14/07/2020 in Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1 wherein the court has held that:

"We may reiterate, therefore, that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. (supra), and incorrectly "clarified" in Shafhi Mohammed (supra). **Oral evidence in the place of such certificate cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law**. Indeed, the hallowed principle in Taylor v. Taylor (1876) 1 Ch.D 426, which has been followed in a number of the judgments of this Court, can also be applied. Section 65B(4) of the Evidence Act clearly states that secondary evidence is admissible only if lead in the manner stated and not otherwise. To hold otherwise would render Section 65B(4) otiose.

...

Anvar P.V. (supra), as clarified by us hereinabove, is the law declared by this Court on Section 65B of the Evidence Act. The judgment in Tomaso Bruno (supra), being per incuriam, does not lay down the law correctly. Also, the judgment in SLP (Crl.) No. 9431 of 2011 reported as Shafhi Mohammad (supra) and the judgment dated 03.04.2018 reported as, (2018) 5 SCC 311 , do not lay down the law correctly and are therefore overruled.

…

The clarification referred to above is that the required certificate under Section 65B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. **In cases where the "computer" happens to be a part of a "computer system" or "computer network" and it becomes impossible to physically bring such system or network to the Court, then the only means of providing information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4).** "

39. 2018 0 Supreme(Mad) 3650; Muthammal Vs. S.Thangam; Criminal Original Petition No. 3192 of 2016, 3193 of 2016, 6423 of 2016; Decided On : 05-10-2018

When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither section 467 nor section 471of the Code are attracted. Section 420 IPC

It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

40. **2015 0 AIR(SC) 2050; 2015 2 ALD(Cri)(SC) 958; 2015 2 ALT(Cri)(SC) 217; 2015 0 CrLJ 2418; 2015 7 SCC 148; 2015 3 SCC(Cri) 27; 2015 0 Supreme(SC) 195; Pawan Kumar @ Monu Mittal Vs. State of Uttar Pradesh & Anr.; Criminal Appeal No. 2194 OF 2011& batch; Decided On : 11-03-2015**

In the light of Section 27 of the Evidence Act, whatever information given by the accused in consequence of which a fact is discovered only would be admissible in the evidence, whether such information amounts to confession or not. The basic idea embedded under 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 [pic]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 [See: State of Maharashtra Vs. Damu, (2000) 6 SCC 269].

The "fact discovered" as envisaged under Section 27 of the Evidence Act embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect.

41. **1962 0 AIR(SC) 1788; 1963 1 ALT(SC) 111; 1963 0 CrLJ 8; 1962 0 Supreme(SC) 247; K. Chinnaswamy Reddy Vs. State of A.P.; Criminal Appeal No. 6 of 1960.; THREE JUDGE BENCH**

Section 27 makes that part of the statement which is distinctly related to the discovery admissible as a whole, whether it be in the nature of confession or not. Now the statement in this case is said to be that the appellant stated that he would show the place where he had hidden the ornaments. The Sessions Judge has held that part of this statement which is to the effect "where he had hidden them" is not admissible. It is clear that if that part of the statement is excised the remaining statement (namely, that he would show the place) would be completely meaningless. The whole of this statement in our opinion relates distinctly to the discovery of ornaments and is admissible under S. 27 of the Indian Evidence Act. The words "where he had hidden them" are not on a par with the words "with which I stabbed the deceased" in the example given in the judgment of the Judicial Committee. These words (namely, where he had hidden them) have nothing to do with the past history of the crime and are distinctly related

to the actual discovery that took place by virtue of that statement. It is however urged that in a case where the offence consists of possession even the words "where he had hidden them" would be inadmissible as they would amount to an admission by the accused that he was in possession. There are in our opinion two answers to this argument. In the first place S. 27 itself says that where the statement distinctly relates to the discovery it will be admissible whether it amounts to a confession or not. In the second place, these words by themselves though they may show possession of the appellant would not prove the offence, for after the articles have been recovered the prosecution has still to show that the articles recovered are connected with the crime, i.e., in this case, the prosecution will have to show that they are stolen property. We are, therefore, of opinion that the entire statement of the appellant (as well as of the other accused who stated that he had given the ornament to Bada Sab and would have it recovered from him) would be admissible in evidence and the Sessions Judge was wrong in ruling out part of it. Therefore, as relevant and admissible evidence was ruled out by the Sessions Judge, this is a fit case where the High Court would be entitled to set aside the finding of acquittal in revision though it is unfortunate that the High Court did not confine itself only to this point and went on to make rather strong remarks about other parts of the evidence.

42. **1970 0 AIR(SC) 1934; 1970 0 CrLJ 1659; 1969 2 SCC 872; 1969 0 Supreme(SC) 355; Jaffer Husain Dastagir Vs. The State of Maharashtra; Criminal Appeal No. 84 of 1968, D/- 11-9-1969.THREE JUDGE BENCH**

The discovery of the fact deposed to in such a case is not discovery of the articles but the discovery of the fact that the articles were kept by the accused at a particular place. In principle there is no difference between the above statement and that made by the appellant in this case which in effect is that "I will show you the person to whom I have given the diamonds exceeding 200 in number." The only difference between the two statements is that a "named person" is substituted for the place where the article is kept. In neither case are the articles or the diamonds the fact discovered.

43. **2003 4 Crimes(SC) 358; 2003 12 SCC 199; 2004 0 SCC(Cri) 357; 2003 0 Supreme(SC) 1023; Praveen Kumar Vs. State of**

Karnataka; Criminal Appeal No. 254 of 2003; Decided on 15-10-2003

Section 27 does not lay down that the statement made to a Police Officer should always be in the presence of independent witnesses. Normally in cases where the evidence led by the prosecution as to a fact depends solely on the Police witnesses, the courts seek corroboration as a matter of caution and not as a matter of rule. Thus it is only a rule of prudence which makes the court to seek corroboration from independent source, in such cases while assessing the evidence of Police. But in cases where the court is satisfied that the evidence of the Police can be independently relied upon then in such cases there is no prohibition in law that the same cannot be accepted without independent corroboration.

44. **2011 0 AIR(SC)(Cri) 2290; 2011 3 ALT(Cri)(SC) 354; 2011 13 SCC 621; 2012 2 SCC(Cri) 766; 2011 5 Supreme 646; Mohd. Arif @ Ashfaq Vs. State of NCT of Delhi; Criminal Appeal Nos. 98-99 of 2009; Decided on : 10-8-2011**

there was no need of a formal arrest for the applicability of Section 27

45. **2001 0 AIR(SC) 979; 2001 1 ALD(Cri)(SC) 427; 2001 1 Crimes(SC) 268; 2001 0 CrLJ 1231; 2001 3 SCC 190; 2001 0 SCC(Cri) 449; 2001 1 Supreme 692; Sanjay @ Kaka Vs. State ((N.C.C.T. of Delhi); Criminal Appeal No.664 of 2000 & Batch; Decided on 7-2-2001**

Under Section 27 only so much of the information as distinctly relates to the fact really thereby discovered, is admissible. While deciding the applicability of Section 27 of the Evidence Act, the Court has also to keep in mind the nature of presumption under Illustration (a) to (s) of Section 114 of the Evidence Act. The Court can, therefore, presume the existence of a fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relations to the facts of the particular case.