

- The fact that A on other occasions shot at B is relevant as showing his intention to shoot B.
 The fact that A was in the habit of shooting at people with intent to murder them is irrelevant.
- (p) A is tried for a crime.
 The fact that he said something indicating an intention to commit that particular crime is relevant.
 The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.

NOTES

Accused's version immediately after the occurrence is relevant. [1998 P.Cr.L.J. 216]

28. Facts bearing on question whether act was accidental or intentional. When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrence, in each of which the person doing the act was concerned, is relevant.

Illustrations

(a) A is accused of burning down his house in order to obtain money for which it is insured. The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from different insurance officers, are relevant, as tending to show that the fires were not accidental.

(b) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.

(c) As is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The fact that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant as showing that the delivery to B was not accidental.

29. Existence of course of business when relevant. When there is a question whether a particular act was done; the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Illustrations

(a) The question is, whether a particular letter was dispatched.

The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that particular letter was put in that place are relevant.

(b) The question is, whether a particular letter reached A.

The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

ADMISSIONS

30. Admission defined. 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 any of the persons, and under the circumstances, hereinafter mentioned.

[Explanation. Statements generated by automatic information systems may be attributed to the person exercising power or control over the said information system"] [In terms of S. 29 of Electronic Transactions Ordinance, LI 2002, for the purpose of Ordinance LI 2002 the Qanun-e-Shahadat Order, 1984 shall be read subject to the amendments specified in the schedule to this Ordinance LI of 2002, Subs. by Ordinance LI of 2002, w.e.f. 11-09-2002]

1. **Admission.** Admission has been defined under Article 30, Qanun-e-Shahadat, as a statement (oral or documentary) which suggests an inference as to fact in issue or relevant facts which is made by any person and in view of Explanation added to this Article Statement generated by automatic information system can also be used as an admission by any person. [PLD 2007 Kar. 448] Party is bound by admission recorded in pleading in a suit in which it is filed. It is not bound by admission made in a subsequent suit. [1993 MLR (Civil) S.C. 46] When several persons were jointly interested in a certain property, admission of any of such persons would be receivable against himself and other joint owners provided it related to subject matter in dispute. Such admission would be only relevant but never conclusive, unless it amounted to estoppel, but its evidentiary value lay in the fact that it raised presumption that fact admitted was true. [1990 MLD 334] Signing of document admitted by defendant legal representatives are liable for the same. [1991 CLC 1958 - 907] Fact admitted, need not to be proved. [PLD 1997 Lah 153, 1998 MLD 1252] Question of proper construction of a document. Question of law and not of fact. [PLJ 1997 Lah 26] Party cannot be prevented to give up a plea raised by it. [PLD 1997 Lah 38] Statement in chief examination not challenged—Stand admitted. [2001 P.Cr.L.J. 503] Admission in respect of liability of one partner in his individual capacity cannot bind the co-partner. [PLD 2001 SC 79]

Admission of a co-plaintiff and co-defendant. Validity of valid execution of the agreement to sell had been challenged by the defendant in a separate suit, for which a separate issue was framed by Trial Court, therefore, the plaintiff could not rely upon and take advantage of an admission made by the vendor, because an admission made by a co-defendant was not binding on the other even if made in the written statement. [PLD 2015 S.C. 187]

2. **Acquiescence—A species of estoppel.** [1991 PLC 908] Admission of one defendant cannot bind other. [1991 MLD 2697]

3. **Admission on point of law:** Admission on point of law muchless admission based on erroneous opinion on a point of law would neither bind maker of such admission, nor any other person whom make of admission represented in any judicial proceedings before a Court of law. [1991 MLD 1291] Admission which is wrong on a point of fact or is made in ignorance of a legal right, has no binding effect on the person making it. [PLD 1989 S.C. 749 + PLD 1975 S.C. 311] Admission not resiled till passing of decree Such persons are debarred from denying the truth of such admission or to withdraw from it. [1989 CLC 1327] Admission in ignorance of legal right—Has no binding effect. [PLD 1992 Pesh 144] Erroneous admission—Right and title would not get extinguished. [PLD 1992 Pesh 144 + PLD 1975 S.C. 311] Fact asserted in examination-in-chief—Not cross-examined—Admitted. [1992 CLC 235] Admission in pleadings—Binding in the same suit and not in a subsequent suit. [1992 SCMR 2300] Admission—Cannot be discarded. [1992 MLD 2515] Failure to deny amounts to admission. [PLD 1996 Kar 365] Fact admitted—Need not to be proved. [1998 MLD 1252] Fact assailed remaining unchallenged—Amount admission. [2001 SCMR 1700] Admission wrong in fact- Not binding. [2001 MLD 427] Statement of admission and confession to be accepted as a whole. [2007 YLR 261]

Withdrawal of admission. Admission which is wrong, in fact, can be withdrawn but that would be subject to two conditions: first, where admission amounts to a representation operating as estoppel and second, admission made nit he pleading. [2005 YLR 946]

4. **Statement of defendant—Statement of defendant, a relevant factor in appreciating the evidence** [PLD 2001 S.C. 79]

5. **Joint extra judicial confession.** Not admissible, reliance not warranted, such confessional statement liable to be excluded from consideration. [PLJ 2004 Cr. Cases. (Lah) 871]

6. **Confession recorded on oath.** Amounts to putting the accused under pressure and compulsion, no worthy of reliance. [PLJ 2005 Cr. C. (Pesh) 112]

7. **Acceptance of confession.** Confession made by a person can be accepted to the extent to which it would effect himself and can be rejected to the extent to which it implicate somebody else. [2006 P.Cr.L.J. 1793] Disclosure or confession cannot be partly right upon and the portion exonerating accused cannot be discarded. [2012 YLR 687]

31. Admission by party to proceeding or his agent, etc. (1) Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

(2) Statements made by parties to suits suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character.

(3) Statements made by

(a) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or

(b) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit.

are admissions if they are made during the continuance of the interest of the persons making the statements.

NOTES

Admission. Admission against own interest, cannot be treated as an innocent admission, the same would be a new phenomenon having not legal foundation at all. [2003 SCMR 41] No one would make any admission against his own interest unless the same is true. [2002 SCMR 1173] Admission by a party in proceeding can be used as evidence of conclusive nature, if same is proved to be unqualified. [2005 SCMR 977] No one would make any admission against his interest unless same is true. [2011 YLR 1300] Statement of a witness made in cross-examination including scribing of receipt and affixation of signatures thereon by opposite party, if not challenged during cross-examination by opposite party would amount to an admission as envisaged in Article 31 of Qanun-e-Shahadat, 1984. [2012 MLD 23; 2001 SCMR 1700] Admission procured through forgery party making the same is not bound by it. [2012 MLD 852]

32. Admission by persons whose position must be proved as against party to suit.

Statements made by persons, whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or subject to such liability.

Illustrations

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission and is a relevant fact as against A if A denies that C did owe rent to B.

NOTES

Admission of a party in earlier litigation cannot be used in subsequent proceedings. [2013 YLR 2555]

33. Admission by person expressly referred to by party to suit. Statements made by person to whom a party to the suit has expressly referred for information in reference to matter in dispute are admissions.

Illustrations

The question is, whether a horse sold by A to B is sound.

A says to B: "Go and ask C: C knows all about it". C's statement is an admission.

1. **Referee.** Referee's "faisla" showing to be award cannot be made rule of Court without giving an opportunity to parties, to file objections thereto. [1990 SCMR 763] Referee has to render his statement in accordance with his personal knowledge of the subject matter of the dispute and he would not have to rely upon any extraneous material or circumstances. Statement of a referee would be deemed to be a statement of the parties as if they had made such statements themselves. [PLD 2002 Lah 190] Statement made by the referee after making the inquiry and not purely on the basis of personal knowledge, not binding. [2004 YLR 295]
2. **Arbitrator and referee.** Arbitrator is a person who decides a dispute after inquiry. Referee gives his findings on the basis of knowledge or belief. [2004 YLR 295]
3. **Award.** Award is not statement under section 33, Qanun-e-Shahadat, 1984. [2004 YLR 295]
4. **Submission to arbitration.** Matter referred to third person is not in the nature of submission to arbitration but rather as an aid to the settlement of the difference existing between the parties. Necessarily there must be an express reference for information in order to make the statement and admission under this Article. [2004 YLR 295]

34. Proof of admissions against persons making them, and by or on their behalf. Admissions are relevant and may be proved as against the person who makes them, or his representative in interest: but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases:

(1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under Article 46.

(2) An admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

Illustrations

(a) *The question between A and B is, whether a certain deed is or is not forged, A affirms that it is genuine, B that it is forged.*

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(b) *A, the captain of ship, is tried for casting her away.*

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day-to-day and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under Article 46 paragraph (2).

(c) *A is accused of a crime committed by him at Peshawar.*

He produces a letter written by himself and dated at Lahore on that day, and bearing the Lahore post-marks of that day.

The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under Article 46 paragraph (2).

(d) *A is accused of receiving stolen goods knowing them to be stolen.*

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.