

(e) A is accused of fraudulently having in his possession counterfeit, coin which he knew to be counterfeit. He offers to prove that he asked a skilful person to examine the coin as he doubted whether it was counterfeit or not, and that person did examine it and told him it was genuine. A may prove these facts for the reasons stated the last proceeding illustration.

NOTES

Accused admitting guilt. Confession of accused admitting the guilt of commission of offence can only be used against that accused and not against the co-accuse. Under Article 34 Qanun-e-Shahadat an admission should be proved by or on behalf of person making it and not against any person. [2011 YLR 355]

35. When oral admissions as to contents of documents are relevant. Oral admissions as to the contents of a documents are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

36. Admission in civil cases when relevant. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation. Nothing in this Article shall be taken to exempt any advocate from giving evidence of any matter of which he may be compelled to give evidence under Article 9.

NOTES

Despite the admission of the first defendant, when the other defendant has denied the execution and attestation of sale deed and claimed same to be the result of fraud and collusion between the first defendant and the plaintiff, it is incumbent upon the plaintiff to have prove the valid execution and attestation of the agreement to sell. [PLD 2005 Lah. 654]

37. Confessions caused by inducement, threat or promise, when irrelevant in criminal proceeding. A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

NOTES

1. Confession. Article 37 of Qanun-e-Shahadat speaks as to when the confession caused by inducement, threat or promise is irrelevant in criminal proceeding. Article 38 relates to confession to police officer not to be proved as against a person accused of any offence. Article 39 says that no confession of accused while in custody of police would be proved as against such person. Article 40 is the only exception to Articles 37, 38, 39 which shows as to how much of information received from accused can be proved. Difference as found in Article 40 Qanun-e-Shahadat is that when any fact is deposed to by an accused before the investigating officer and is discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information whether it amounts to confession or not as relating distinctly to the fact there by discovered can be proved against the accused, otherwise any information consequent upon a fact, if is discovered that would also qualify irrelevance and inadmissibility. [2011 YLR 543] Confession in order to be pregnant of probative value must be voluntary, obtained without duress and coercion. Main object of putting certain questions before recording confessional statement is to judge as to whether accused was confessing his guilt voluntarily or otherwise. [PLD 2009 Quetta 1] Confession being specie of admission is admissible under Law of