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ASSIGNMENT NO.1

What are privilege communications? State those circumstances in which the privilege could be claimed?

ASSIGNMENT NO.2

Define and Differentiate Admission and Confession? Discuss the principle upon which the relevancy of admission and confession depends in the light of provision of Qanunn-e-Shahadat Order, 1984?

ASSIGNMENT NO.3

Write short notes on the following:

- (i) **Dying Declaration**
- (ii) **Relevancy of facts**
- (iii) **Accomplice**

ASSIGNMENT NO3. SHORT NOTE

(I) DYING DECLARATION:

INTRODUCTION:

Dying declarations are those statements which can be made via the victims of homicide offences as to the motive in their demise. The regulation concerning dying declarations is embodied in Article 46 of the Qanun-e-Shahadat Order, 1984. Offers with loss of life statement. General presumption is that death people generally speak truth. And also historic principle is

"nobody on point of dying need to be presumed to be mendacity."

RELEVANT PROVISIONS:

Article forty six (1) under Qanun-e-Shahdat,1984:

MEANING:

States that demise is impending mainly when such declaration relates to purpose of occasions of such individual's imminent demise.

DEFINITION:

Statement via someone who believes that he close to die by some accidents inflicted on him via a few folks.

GENERAL PRINCIPLE:

The standard principle concerning the evidentiary cost of loss of life assertion is that it may shape the only basis of conviction with out further corroboration from impartial sources. This principle has continually been enunciated by means of the courts for many years.

In one of the well-known instances Abdul Raziq (1964), the Peshawar High Court affirmed this principle in an oblique manner via mentioning that "it has now been irrevocably held that it can not be laid down as an absolute rule of law that a loss of life announcement can't form the only foundation of the conviction until it is corroborated." The courtroom similarly determined that a death statement can be relied upon with out jeopardizing the justice while the court is completely convinced of its truthfulness and genuineness. To arrive at this decision, the court docket stated the Judicial Committee of Privy Council that held in Chandrasekera (1937) that a loss of life announcement can also via itself sustain a conviction provided it's miles located to be reliable.

FORM OF DYING DECLARATION:

A death statement can be made in following form:

- (1) written
- (2) Oral
- (3) By Signals (Signs and Gestures).

Person who may additionally Record it

Following are the persons record the death statement:

(i) Who can Record the statement:

Anyone can the document assertion by using the individual possibly to be die.

(ii) Statement recorded by means of magistrate:

A magistrate can document loss of life statement under segment 164 of Cr.P.C.

(iii) Recording with the aid of Police officer:

According to section forty one (1) of Qanun-e-Shahadat Order 1984, Police officer document the assertion for the duration of the courtroom of investigation and police officer report statement admissible in evidence with delight of the courtroom.

(iv) Recording via the Doctor:

Doctor handiest document loss of life declaration in fantastic instances where he's company that declarant is lightly to be die.

More than One Dying Declaration:

A declarant can also make multiple announcement as to his motive of demise which may ultimately be dealt with as demise declarations. In this kind of state of affairs, the courts need to verify the uniformity amongst them. If those statements are observed to be constant and uniform in cloth instances, then minor omissions will now not adversely have an effect on their evidentiary value. But if those statements are replete with contradictions, then relying upon them would be a gross miscarriage of justice.

Evidentiary Value of Dying Declaration:

Dying assertion is a noticeable piece of evidence and may be used towards the accused, when there's nothing to indicate that the deceased had substituted an innocent man or woman in area of real perpetrator. So death announcement whilst deliberately made underneath a solemn feel of coming near death and under circumstances wherein the deceased isn't in all likelihood to be unsuitable, is worth of extraordinary weight. But, loss of life declaration which is incomplete and partially touched-up by means of fascinated events can't be relied upon.

CONCLUSION:

The law of evidence as relevant in Pakistan states that a dying assertion is a applicable piece of evidence. Thereafter, the law is silent as to its evidentiary price. This situation has been treated by the courts of their pronouncements. Thus, the usual aids hired via the courts for figuring out the truthfulness of any statement might all be applicable for comparing a dying assertion.

(ii) RELEVANCY OF FACTS:

Relevancy of a Fact means that the fact has a significant relation to another fact that is under consideration. When two facts have a direct relation, they are relevant to each other. For relevancy it is necessary that if we take one fact, the other will be relevant only if there is a certain type of relation between them, which is pertinent in the given circumstances.

A relevant fact is also known by its latin term – factum probans, which means a fact that proves. Thus, if facts-in-issue are the facts to be proved or disproved in a trial, relevant facts are the facts that help prove or disprove facts-in-issue. A fact is relevant if belief in that fact helps the conclusion of the existence or non-existence of another.

Section 3 specifies that a Relevant fact is a fact is relevant to another when it is connected to the other in any of the ways referred to in the provisions contained in the act. Sections 6 to 55 contains provisions that define the relationships that make a fact legally relevant or not relevant to another. The relationship makes one fact more probable or improbable because of the other. For example, Fact A is that a person was given certain medication and he died. Fact B is that the person was suffering from TB. Here, fact B is relevant to fact A because it throws light on the possible causes of his death. Fact B makes is probable that he might have died because of TB instead of the given medication.

(iii) ACCOMPLICE:

Accomplice is an accused man or woman who's directly or circuitously involved in fee of an offence or its privy. He is also referred to as guilty companion or an approver (in urdu SULTANI GAWAH).

An companion is a able witness as according to article 16 of the Qanoon-e-Shahadat Order, 1984 (QSO) except in Hadd cases. Though it's miles permissible that an accused may be convicted on evidence of simplest one witness but for partner it's far supplied under example (b) of article 129 (QSO) that the courtroom may also presume that an associate is untrustworthy of credit unless corroborated in cloth proof.

ILLUSTRATION:

The procedure of tendering pardon to an companion is furnished under Criminal Procedure Code, 1898 (the Code). Section 337 of the Code offers method for tendering pardon to associate by means of the prosecution thru Justice of the Peace throughout investigation (pre-trial), inquiry or trial stage it implies a condition that in instances of hurt or Qatl, the victim or heirs of sufferer shall supply consent for tendering such pardon by using the Prosecution. Where an accused is tendered pardon to be an companion, he is produced before the Magistrate for recording his announcement. At this eve the accused is required to give full and true disclosure of all of the situations of the incident inside his expertise so one can attain the actual culprits of the offence.

KINDS OF ACCOMPLICE:

There are Three kinds of Accomplice. An accomplice many come under any one of the following categories.

- i) Principle Offender first degree or second degree.
- ii) Accessories before the crime.
- iii) Accessories after the crime.

CASES:

Accomplice's proof. – Evidence of an approver or partner cannot be universal for convicting a co-accused unless the identical is corroborated through different co-gent and reliable evidence in material particulars. PLD 2009 Lah. 559 Not dependable in Hadd or Qisas case but admissible in Tazir 1992 KLR (Cr.L.) 540 Accomplice's proof-Inadmissible in Hadd and Qisas-Uncorroborated testimony-Not

dependable. 1992 PCIJ 171 Evidence of companion is to be scrutinized if his inherently well worth reliance and he is likewise corroborated thru independent proof. PLD 2002 Kar.

ANSWER01

DEFINITION:

Privileged communication is an interplay among parties in which the law recognizes a personal, covered dating. Whatever is communicated among the two parties need to continue to be confidential, and the law can not force their disclosure.

ARTICLES UNDER LAW OF EVIDENCE:

ARTICLE 11. Privilege not waived by using volunteering evidence:

If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented there by to such disclosure as is mentioned in Article 9, and. If any party to a suit or proceeding calls any such advocate as a witness, he shall be deemed to have consented to such disclosure only if he questions such advocate on matters which, but for such question, he would not be at liberty to disclose.

ARTICLE 09: Professional communications:

No suggest shall at any time be authorised, until together with his patron's specific consent, to disclose any communique made to him in the route and for the reason of his employment as such advocate, with the aid of or on behalf of his customer, or to country the contents or situation of any document with which he has emerge as acquainted within the course and for the purpose of his expert employment, or to reveal any advice given by way of him to his patron within the course and for the purpose of such employment.

Provided that not anything on this Article shall guard from disclosure—

- (1) this kind of verbal exchange made in furtherance of any illegal motive ; or
- (2) any reality discovered by using any recommend, in the direction of his employment as such displaying that any crime or fraud has been committed for the reason that commencement of his employment, Whether the eye of such recommend changed into or became no longer directed to such reality with the aid of or on behalf of his purchaser.

ILLUSTRATION:

A privilege is a criminal rule that protects communications within certain relationships from pressured disclosure in a courtroom intending. One such privilege, that's of lengthy status and relevant in all legal settings, is the attorney-consumer privilege. Communications among an legal professional and a

purchaser that had been made for the cause of acquiring criminal recommendation may not be disclosed until the purchaser is of the same opinion to the disclosure.

Connecticut has several different privileges which have been created by way of statutes. While some of those statutes use the terms “privileged” and “exclusive” interchangeably, they all guard communications made in self assurance inside the context of they range in their protections depending on the needs of the precise dating.

Like different confidentiality statutes, the privilege statutes grant manage over the discharge of the statistics to the individual and additionally define situations below which the facts may be launched without the consent of the man or woman. A requirement of all privileges is that the verbal exchange should were supposed to be personal at the time it became made, in order that any conversation that takes region inside the presence of other events will not be privileged.

The following gives a short dialogue of the statutory privileges most applicable to juvenile courtroom complaints and the commonly encountered exceptions for the privileged communications. Courts will interpret exceptions very narrowly and allow disclosure without consent most effective if the scenario suits squarely within one of the enumerated exceptions in each statute. For a entire listing of exceptions, check with the statute.

HEALTH CARE PROFESSIONALS:

Communications with the subsequent health care professionals are included via statute

- Psychiatrist
- Psychologist
- Physician
- Family and Marital Therapist
- Social Worker

PROFESSIONAL COUSELOR:

The communications must had been made for the reason of diagnosis and remedy of a physical, intellectual, or behavioral health sickness.

The time period “health care expert” cowl a wide variety of scientific work that may be grouped together as therapeutic relationships. The nature in their work means that they share most of the same limitations.

“Privileged communications” confer with all statistics exchanged among an person and a fitness care expert associated with the diagnoses and treatment of the man or woman. In trendy, that means that the expert might not be legally required to reveal the contents of the communications over the objection of the person.

DISCLOSING THE COMMUNICATION PRIVELEGES WITH CONSENT:

A man or woman can also voluntarily consent, either orally or in writing, to the disclosure of the facts. Consent can be limited to specific pieces of statistics and/or to disclosure simplest to precise other people or for precise functions. The courtroom will decide what should be disclosed and what shouldn't be disclosed.

A figure may provide consent to disclosure of statistics regarding a toddler, however if an lawyer has been appointed for the child, that attorney represents the kid's interest and may withhold consent for disclosure although the discern seeks the disclosure.

DISCLOSING THE COMMUNICATION PRIVELEGES WITHOUT THE CONSENT:

There are several not unusual exceptions to the privileges for health care specialists that permit disclosure without the individual's consent. Courts will interpret exceptions very narrowly, and will allow disclosure without consent simplest if the state of affairs suits squarely inside one of the enumerated exceptions in each statute.

There are four exceptions, mentioned underneath, which can be commonplace to maximum fitness care professionals.

HARM TO OTHERS:

The confidentiality of communications made to a health care expert will no longer be included whilst it leads the expert to accept as true with that the individual poses a threat to him- or herself or to some other character. This exception within reason extensive, allowing disclosure while the expert has exact reason to accept as true with that there's a chance of coming near harm to any character.

This exception puts a responsibility at the professional to defend others from being harmed by the professional's purchaser. It is an issue of judgment on how incredible a risk of harm, and the seriousness of that damage, is definitely posed by means of the individual. Because no harm has but occurred, and therefore no crime has been devoted, as soon as the expert makes the vital disclosure to prevent the harm from happening, any further disclosure is against the law.

ABUSE OF OTHERS:

If the expert has purpose to suspect or agree with that a child or an elderly character, disabled, or incompetent character is being abused, the professional is obligated via mandated reporting statutes to document the abuse to the corporation liable for worrying for these people. Because such abuse, if established, is a criminal offense, the exception extends to anything in addition disclosure is essential for the prosecution of the crime, which includes testimony in courtroom.

DOMESTIC VIOLENCE AND SEXUAL ASSAULT COUNSELORS:

This statute has very precise provisions pertinent to the paintings of these counselors and the evidentiary needs within the prosecution of crook. The person must have consulted a home violence counselor or a sexual attack counselor for the purpose of securing recommendation, counseling or assistance regarding an intellectual, bodily or emotional condition resulting from an occurrence of home violence or a sexual assault.

DISCLOSURE WITHOUT CONSENT IS AUTHORIZED BELOW THE FOLLOWING OCCASIONS:

In matters of evidence regarding chain of custody of evidence; in subjects of evidence concerning the physical appearance of the sufferer at the time of the injury; or whilst the domestic violence counselor or sexual assault counselor has understanding that the victim has given perjured testimony and the defendant or the kingdom has made a suggestion of evidence that perjury may additionally have been dedicated.

CONCLUSION:

To conclude, it can be stated that there are some circumstances in which privileges communication can be waived and not be waived as it was mentioned the above but under article 11 of the law of evidence , 1984. That if an advocate on which he's possessed someone privilege obviously he cannot disclosed , he would not be at the liberty to disclose such matters as it is the right provided by the article 11 of Qanun-e-Shahdat order , 1984.

ANSWER02:

DEFINITION OF CONFESSION:

Confession is used to intend a form of admission, made via the accused, declaring the inference that he/she committed the offence. It is regarded because the nice proof against its maker and additionally against the co-accused, i.e. The person that is also worried with the accused within the commission of a criminal offense. So, it should both admit the crime or significantly all the information that amount to the crime.

Confession can be labeled into classes:

Judicial Confession: When a confession made earlier than the courtroom or recorded with the aid of the Justice of the Peace, it's miles stated to be a judicial confession.

Extra-Judicial Confession: When a confession is made earlier than the police or some other person with the exception of the Judges and Magistrates.

DEFINITION OF ADMISSION:

The term admission may be defined because the voluntary declaration that acknowledges the fact of a truth. It can be oral, documentary or in digital form which proposes inferences approximately any truth

in query or a material truth. Documentary evidence is one that is available in the shape of letters, receipts, maps and payments, and so on.

An admission is made by using any man or woman who may be a celebration to the lawsuit, predecessor-in-hobby of a party, agent or any person having certain hobby within the situation remember.

An admission is considered as the ultimate proof towards the party who makes it, except if it isn't actual and made beneath those conditions that do not bind him/her. So, it have to be clean, positive and specific.

DIFFERENCE BETWEEN CONFESSION AND ADMISSION:

Meaning Confession refers to a formal announcement by which the accused admits his guilt of a criminal offense while an admission refers to the acknowledgement of a truth under dialogue or a fabric reality in a lawsuit.

Proceeding Criminal best while in admission Civil or Criminal.

Relevance In Confession it need to be voluntary to be relevant while in admission it need not be voluntary to be applicable.

Retraction _____ the retraction in confession it is possible while in admission it is not possible.

Made by In confession it is accused. In admission any person can made.

Use In confession, It continually cross in opposition to the man or woman making it while in admission_It can be used on behalf of the person making it.

RELEVANT PROVISIONS WHICH DEFINES THE PRINCIPLES OF CONFESSION AND ADMISSION IN THE LIGHT OF QANUN-E-SHAHDAT, 1984:

Articles 30 through 36 of the Qanoon-e-Shahadat Order, 1984 cover the topic of admissions.

Meaning of the term "Admission"

Stephen defines admissions in following words; "An admission is a statement, oral or written suggesting an inference as to any fact in issue or relevant fact or deem to be relevant to any such fact made by or on behalf of any party to any proceeding".

An admission is concession or voluntary acknowledgement made by a party or someone identified with him in legal interest of the existence of certain facts which are in issue or relevant to an issue in the case.

Admission as an admissible piece of evidence:

Under Article 30 of the Qanoon-e-Shahadat Order, 1984 admissions are admissible piece of evidence. Under common law admission is considered to be the genesis of confession which can become the sole ground of conviction. Admission can be declared a conclusive proof against the maker. Subject to certain exceptions, the general rule in both civil and criminal cases is that any relevant statement made by a person is evidence against himself.

Rational behind the admissibility of admission as evidence:

A statement made by the person against his interest is presumed to be true.

Persons whose statements are admissions:

A statement is admission only if is made by any of the following person statement by the parties to the proceedings under Article 31 the statement made by the agent authorized by such person under Article 31 statement made by the representatives of the parties statement made by the parties jointly interested in the subject matter of proceedings.

Admissions by the agent:

Law of agency construes every act done by agent or every statement given by him under the cover of his agency as the act or statement of principal himself. Thus admission made by agent is admissible for or against principal. This rule is called rule of "Legal identity." Admissions by following persons amount to admission by agent.

Under Article 32 an admissions of third person against his own interest when it effects his position or liability and when the position or liability and when the position or liability has to be proved against a party to the suit; is relevant against the party.

Under Article 33 if a man refers another upon any particular business to a third person, he is bound by what this third person says or does concerning it as much as has been done or said by him. Article 34 lays down two rules an admission is relevant and may be proved against the person who makes it or his representative in interest and an admission cannot be proved in favor of the person making it or his representative in interest. However, there are some exceptions which are: when it is of such a nature that, if the persons making it were dead, it would be relevant as between third person under Article, when it consists of a statement of the existence of any state of mind or body made at or about the time when such state of mind or body existed and is accompanied by conduct rendering its falsehood improbable if it is prevalent otherwise than as an admission.

According to article 35 the genuineness of the document produced is in question, According to article 36 an admission is not relevant in a civil case if it is made 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.

Meaning of the term "Confession":

In Article 30 admission has been defined which a generic term applicable both to civil and criminal proceedings. Article 37 has laid down the law of confession as confession is irrelevant ,if it is obtained by any Inducement, threat, or Promise such inducement, etc., Article 38 says that a confession made to a police officer is not admissible. Article 39 says that a confession made by a person in police custody is not admissible, unless it is made in the presences of Magistrate. According to Article 42 if confession is otherwise relevant, then it does not become irrelevant if it is made. under a promise of secrecy in consequence of a deception practiced on the accused when the accused was drunk in answer to questions which the accused need not have answered Because he was warned that he was not bound to make such confession, and the evidence of it might be given against him. However, this article shall not apply to trials of Hudud cases. Article 43 provides that where an accused confesses his own guilt some time implicates another person who is tried jointly with him for the same offence, his confession may be taken in to consideration against himself and against such other person as a circumstantial evidence. From Islamic perspective all the aforementioned articles are in total consonance with the teachings of Islam. However, the Qanun-e-Shahadat 1984 is silent about the different of modes and quantum of Admission/Confession. Article 16 is about the confession of a co accused which says. "An accomplice shall be competent witness against an accused person except in the case of an offence punishable with Hadd; and conviction is not illegal merely because it proceeds upon uncorroborated testimony of an accomplice." In this article the testimony of accomplice has not been considered valid foe Hadd crimes, it is in consonance with the teachings of Islam, but according to Islamic law his testimony is also not valid for Qasis.

CONCLUSION:

To sum up, it can be stated that the admission has a wider scope than confession, because the latter comes under the ambit of the previous. Hence, Every confession is an admission, however the reverse isn't always authentic.

The fundamental distinction among these two is that in case of confession, the conviction is based on the statement itself, however, inside the case of admission, additional proof is needed, to support the conviction