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Confession, Retraction & Conviction: A Jurisprudential Analysis of Supreme Court Judgments

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Confessional statements have long held a pivotal role within the framework of criminal trials. They are regarded as powerful indicators of guilt, yet their evidentiary strength is often contested, particularly when an accused later retracts or contradicts the admission. While the Bhartiya Sakshya Adhiniyam 2023¹ provides a statutory framework on confessions, the fundamental challenge for courts lies in reconciling the evidentiary value of a confession with the imperative to guard against unjust convictions. Indian courts, guided by constitutional protections, have approached this issue with restraint: although a retracted confession may remain legally admissible, it is seldom sufficient to sustain a conviction unless it is corroborated by reliable evidence. This research examines the legal treatment of confessions and their retraction through a detailed study of statutory provisions and constitutional principles. It undertakes a critical appraisal of significant Supreme Court pronouncements that have shaped the doctrine on the subject, while also offering a brief comparative glance at foreign jurisdictions. The overall assessment suggests that although the Indian judiciary has wisely exercised caution, additional legislative interventions and stronger procedural safeguards are required to minimise the risk of wrongful convictions.

Keywords: *confession, retracted, evidentiary value, conviction.*

¹ Bhartiya Sakshya Adhiniyam 2023

INTRODUCTION

Confessions occupy a paradoxical space in criminal jurisprudence. On the one hand, they constitute a powerful form of evidence, often considered the “queen of proofs.” On the other hand, they are inherently vulnerable to coercion, inducement, or custodial pressure, making them susceptible to abuse and wrongful convictions. The complexity deepens when confessions are retracted, raising the question of whether a statement initially made by the accused but later withdrawn retains probative force.² A retracted confession is one where the accused initially confesses to the crime but subsequently withdraws or denies the statement. The Bhartiya Sakshya Adhiniyam does not explicitly regulate retracted confessions, leaving their treatment and evidentiary acceptance to judicial interpretation & discretion. The research on this issue will require a proper analysis of relevant constitutional & statutory provisions and judicial treatment of retracted confessions by the Supreme Court in specific circumstances and factual matrix, which differs from case to case, impacting the admissibility and evidentiary value of retracted confessions.

The Bhartiya Sakshya Adhiniyam, 2023, particularly Sections 22-24³, regulates the admissibility of confessions, drawing a sharp line between voluntary and involuntary statements. Article 20(3) of the Constitution of India further prohibits compulsion to self-incriminate, shaping judicial attitudes towards confessional evidence. Yet, courts have wrestled with situations where an accused confesses and later retracts, forcing judges to decide whether such retraction negates credibility or simply demands corroboration.

The central dilemma that arises due to a retracted confession during trial is “Shall courts admit it, and if so, under what conditions?” Long-standing judicial pronouncements of the Supreme Court—such as *Pyare Lal Bhargava v State of Rajasthan*⁴ and *Kehar Singh v State (Delhi Administration)*⁵ have elaborated upon principles governing retracted confessions. This article provides a structured analysis of such rulings, reviews scholarly commentary, and highlights

² Anne C Dailey, *Law and the Unconscious: A Psychoanalytic Perspective* (Yale University Press 2018)

³ Bhartiya Sakshya Adhiniyam 2023, ss 22-24

⁴ *Pyare Lal Bhargava v State of Rajasthan* AIR 1963 SC 1094

⁵ *Kehar Singh and Ors v State (Delhi Administration)* (1988) 3 SCC 609

areas of doctrinal tension. While the focus remains on Indian law, comparative references are drawn from jurisdictions like the UK and the USA.

PROBLEM STATEMENT

The problem lies in “*Determination of the evidentiary weight of a retracted confession*”. While statutory provisions under the Bhartiya Sakshya Adhiniyam bar involuntary confessions, they remain silent on the precise status of retracted confessions. If courts were to rely heavily upon them, there is an increased risk of wrongful conviction, especially in a criminal justice system where allegations of custodial violence are not uncommon. Conversely, if retracted confessions are disregarded entirely, guilty offenders may escape punishment, thereby undermining deterrence and public confidence. This doctrinal ambiguity leads to unpredictability in outcomes and raises concerns about potential miscarriages of justice, especially in cases involving custodial confessions or prolonged detentions. The law must, therefore, navigate between two perils: miscarriages of justice due to wrongful conviction and failures of justice due to acquittal of the guilty. Ultimately, the absence of legislative clarity places a disproportionate burden on judicial discretion. Hence, there is a need for this Research work to analyse the judicial interpretations of the Supreme Court on this issue and put forth some appropriate suggestions to cure this ambiguity regarding the evidentiary treatment of retracted confessions.

RESEARCH QUESTIONS

1. What is the legal status of retracted confessions under the Bhartiya Sakshya Adhiniyam and the constitutional framework?
2. How has the Supreme Court of India treated retracted confessions in its judicial pronouncements?
3. Can a retracted confession form the sole basis of conviction, or must it always be corroborated?
4. What safeguards exist to ensure voluntariness of confessions, and are they adequate in preventing wrongful convictions?
5. How do comparative legal systems approach retracted confessions, and what lessons may Indian jurisprudence draw from them?

HYPOTHESIS

The working hypothesis of this research is that while the Supreme Court of India has developed guiding principles for evaluating retracted confessions, the absence of a consistent and codified standard has led to judicial inconsistency. Retracted confessions, in practice, cannot serve as the sole basis for conviction without corroboration, though courts sometimes uphold convictions based primarily on such evidence. A more uniform doctrinal framework is necessary to safeguard against the misuse of confessions while ensuring the efficient administration of criminal justice.⁶ Therefore, objectively, it is hypothesised that:

H1: Retracted confessions, if voluntary and corroborated, can form a valid basis for conviction.

H2: Indian Courts are cautious in relying solely on retracted confessions due to the risk of coercion, inducement, or unfair trial.

H3: Indian jurisprudence aligns with international legal standards in requiring corroboration for retracted confessions.

H4: There is a need for a more uniform and robust legal framework to prevent the misuse of confessions and to clearly determine the evidentiary value of a retracted confession.

OBJECTIVE OF THE RESEARCH

The primary objectives of this research are:

- To critically examine the statutory provisions relating to confessions under the Bhartiya Sakshya Adhiniyam, 2023.
- To analyse the judicial interpretation of retracted confessions by the Supreme Court of India.
- To assess the evidentiary value of retracted confessions in relation to conviction.
- To identify constitutional safeguards relevant to confession and retraction.
- To incorporate comparative perspectives to contextualise Indian law.

⁶ Dimpal Khotele and Shaunak Sharma, 'Critical Analysis of the Concept of Retracted Confession' (2023) 4(1) Jus Corpus Law Journal 137 <<https://www.juscorpus.com/wp-content/uploads/2023/10/29.-Dimpal-Khotele.pdf>> accessed 17 August 2025

- To propose appropriate suggestions for reforming the law on retracted confessions.

RESEARCH METHODOLOGY

The research adopts a “**doctrinal methodology**”, relying on primary sources, such as statutory provisions, constitutional articles, and judicial precedents from the Supreme Court of India. Jurisprudential analysis of Supreme Court case laws on Retracted Confession forms the core of this study. Secondary sources, such as commentaries, scholarly articles, and comparative jurisprudence from the UK and the US, are also utilised. The study follows a “qualitative and analytical approach”, analysing doctrinal coherence and judicial reasoning rather than statistical or empirical data. Citations are provided in OSCOLA 4th edition style.

LITERATURE REVIEW

The study of confessions and their evidentiary value has attracted significant scholarly attention, both within Indian jurisprudence and in comparative legal systems. The Indian Evidence Act, 1872⁷, drafted by Sir James Stephen, adopted a structured approach to confessions, distinguishing between voluntary and involuntary statements, and specifically barring confessions made to police officers or while in police custody, unless made before a magistrate.⁸

The jurisprudence on retracted confessions in India is shaped by both colonial precedents and post-independence constitutional developments. The Privy Council in *Pakala Narayana Swami v King Emperor* defined confession as a direct acknowledgement of guilt⁹. Indian courts subsequently expanded upon this definition, stressing voluntariness and truthfulness. Scholars such as Ratanlal and Dhirajlal argue that this design reflects a deep-seated mistrust of coercive police practices prevalent in colonial India.¹⁰ They emphasise that voluntariness is the cornerstone of admissibility and any element of inducement or threat undermines reliability. Seervai, in his constitutional commentary, connects confessions with Article 20(3) of the Indian Constitution, underscoring that the privilege against self-incrimination cannot be diluted merely because the accused appears to have spoken voluntarily¹¹. He argues that custodial settings

⁷ Indian Evidence Act 1872

⁸ J D Heydon, ‘The influence of Sir James Stephen on the law of evidence’ (*AustLII*, 2011) <<https://classic.austlii.edu.au/au/journals/NSWBarAssocNews/2011/12.pdf>> accessed 17 August 2025

⁹ *Pakala Narayana Swami v King Emperor* AIR 1939 PC 47

¹⁰ Ratanlal & Dhirajlal, *The Law of Evidence* (27th edn, LexisNexis 2019)

¹¹ HM Seervai, *Constitutional Law of India* (4th edn, Universal Law Publishing 2023)

create inherent compulsion, and therefore, courts must apply a higher threshold of scrutiny to confessional statements, particularly when later retracted.

Judicial precedents in India, notably *Pyare Lal v State of Rajasthan*¹² and *Shankaria v State of Rajasthan*¹³, confirm that corroboration is a rule of prudence, not of law. Courts adopt discretion but lean towards caution. Moreover, to prevent the escape of a guilty offender, the Supreme Court in *Periyasami v State* held that the retraction does not always dilute or reduce or wipe out the evidentiary value of a confessional statement. Quite often, retraction is an afterthought. It could be the result of legal advice or pressure exerted by those whose involvement may be likely to be disclosed or confirmed by the confessional statement of the accused. Therefore, in each case, the court will have to examine whether the confession was voluntary and true and whether the retraction was an afterthought. In *Kalawati v State of H.P.*¹⁴, this Court stated that the amount of credibility to be attached to a retracted confession would depend upon the facts and circumstances of each case.

Comparative scholarship provides a useful context. In English law, voluntariness has been consistently treated as decisive, as established in *R v Ibrahim*¹⁵, where the Privy Council held that a confession must be free and voluntary to be admissible. Academic commentary by Andrew Ashworth and Mike Redmayne highlights how the English approach seeks to protect both accuracy and fairness by ensuring reliability while discouraging coercive policing under the Police and Criminal Evidence Act 1984 (PACE)¹⁶. In the United States, the Miranda doctrine evolved in *Miranda v Arizona*¹⁷, the Supreme Court of the US held that suspects must be informed of their right to remain silent and to legal counsel, failing which confessions would be inadmissible. Scholars such as Yale Kamisar have pointed out that Miranda warnings redefined the balance between state interrogation powers and individual rights, though subsequent cases have diluted their scope¹⁸.

¹² *Pyare Lal Bhargava v State of Rajasthan* AIR 1963 SC 1094

¹³ *Shankaria v State of Rajasthan* (1978) 3 SCC 435

¹⁴ *Kalawati and Anr v State of Himachal Pradesh* AIR 1953 SC 131

¹⁵ *Ibrahim v R* [1914] AC 599 ALL ER Rep. 874

¹⁶ Andrew Ashworth and Mike Redmayne, *The Criminal Process* (4th edn, OUP 2010)

¹⁷ *Miranda v Arizona* [1966] 384 US 436

¹⁸ Yale Kamisar, 'A Dissent from the Miranda Dissents: Some Comments on the 'New' Fifth Amendment and the Old 'Voluntariness' Test' (1966) 65 Michigan Law Review 59 <<https://repository.law.umich.edu/articles/292/>> accessed 20 October 2025

The literature, therefore, reveals two central themes: first, the emphasis on voluntariness and constitutional safeguards, and second, the tension between confessional reliability and procedural fairness. These themes underpin the need for jurisprudential analysis that follows in this research work.

CONCEPT OF RETRACTED CONFESSION & RELEVANT PROVISIONS

A confession, in its classical sense, refers to an unequivocal admission of guilt by an accused person. Within Indian law, however, confessions are approached with particular caution owing to the risks of coercion and the constitutional protection against self-incrimination under Article 20(3) of the Constitution. A '**Retracted Confession**' arises when a person who initially admitted guilt later withdraws or contradicts that statement, often alleging inducement, threat, or duress at the time of its making. The evidentiary value of such statements has long been a subject of judicial scrutiny, since retraction casts doubt on the voluntariness and reliability of the original confession.¹⁹

The **Bharatiya Sakshya Adhiniyam, 2023** (BSA), which has replaced the Indian Evidence Act, 1872, preserves the fundamental statutory framework on confessions but attempts to modernise and harmonise it with contemporary criminal jurisprudence. **Section 22** of the BSA reiterates that confessions caused by inducement, threat, or promise are inadmissible in evidence, thereby ensuring that voluntariness remains the cornerstone of admissibility.²⁰ Similarly, **Section 23** excludes confessions made to police officers, while **Section 24** disallows confessions made while in police custody unless recorded before a magistrate.²¹ These provisions mirror the earlier Indian Evidence Act, but with updated terminology and structural clarity.

Notably, the BSA, like its predecessor, remains silent on the specific treatment of *retracted confessions*. This legislative lacuna has left the issue to judicial development. The Supreme Court has repeatedly held that while a retracted confession is not rendered inadmissible merely because of the retraction, it is unsafe to base a conviction solely upon it unless corroborated by other reliable evidence.²² Moreover, when an extra-judicial confession is retracted by an accused,

¹⁹ *State of UP v Deoman Upadhyaya* AIR 1960 SC 1125

²⁰ *Bharatiya Sakshya Adhiniyam 2023*, s 22

²¹ *Bharatiya Sakshya Adhiniyam 2023*, ss 23–24

²² *Subramania Goundan v State of Madras* AIR 1958 SC 66

there is no inflexible rule that the court must invariably accept the retraction. But at the same time, it is unsafe for the court to rely on the retracted confession.

The BSA's silence on retraction underscores the judiciary's continuing role in shaping evidentiary standards. While statutory provisions disallow involuntary confessions, the judicially evolved doctrine of corroboration ensures that retracted confessions are approached with circumspection. This balance reflects the constitutional imperative of protecting the accused from coercion while also enabling the prosecution to rely on voluntary admissions where they are supported by independent evidence.

JUDICIAL INTERPRETATIONS

The Supreme Court, over time, laid down some principles to determine the evidentiary weight and the procedure to treat "retracted confession" under Bhartiya Sakshya Adhiniyam through its judicial interpretations in a plethora of cases. Some of the landmark cases have been jurisprudentially analysed to explain the applicability of those principles & interpretations as below:

Voluntariness as the Foundation of Confession: The principle that a confession must be voluntary to be admissible is embedded in Section 22 of the Bhartiya Sakshya Adhiniyam, which renders irrelevant any confession caused by inducement, threat, or promise. The Supreme Court has repeatedly reaffirmed this as the bedrock of confession law. In *Pakala Narayana Swami v King Emperor*²³, the Privy Council, interpreting Indian law, defined a confession as an admission of guilt by the accused and insisted that voluntariness must be established before reliance.

The landmark case of *Pyare Lal Bhargava v State of Rajasthan*²⁴ clarified that voluntariness is a matter for judicial determination, requiring the court to assess all surrounding circumstances. The Court held that even if a confession appears truthful, it cannot be admitted if obtained under pressure or inducement. Similarly, in *Kehar Singh v State (Delhi Administration)*²⁵, concerning

²³ *Pakala Narayana Swami v King Emperor* AIR 1939 PC 47

²⁴ *Pyare Lal Bhargava v State of Rajasthan* AIR 1963 SC 1094

²⁵ *Kehar Singh and Ors v State (Delhi Administration)* (1988) 3 SCC 609

the assassination of Prime Minister Indira Gandhi, the Court highlighted the need for strict scrutiny of confessional statements, particularly when the accused later retracts them.

The same reasoning was echoed in *State of UP v Deoman Upadhyaya*, where the Court emphasised that voluntariness is the lifeblood of admissibility, but retraction is a significant factor indicating possible involuntariness.²⁶ Thus, judicial prudence demands corroboration not as a technical requirement but as a practical safeguard against wrongful convictions. In a recent judgment, the Court critically examined the validity of extra-judicial confessions and held that the extra-judicial confession is a weak piece of evidence and especially when it has been retracted during trial. It requires strong evidence to corroborate it, and it must be established that it was completely voluntary and truthful.²⁷

Voluntariness has also been examined in the context of constitutional rights. In *State of Punjab v Barkat Ram*²⁸, the Supreme Court linked Section 24 with Article 20(3), holding that the guarantee against self-incrimination reinforces the exclusion of compelled confessions. Thus, voluntariness is not merely statutory but also constitutional in character.

Comparatively, this mirrors the English principle in *R v Ibrahim* and the US position in *Miranda*²⁹, both of which elevate voluntariness as essential for admissibility. The Indian judiciary, however, operates in a more complex environment, where police practices and investigative challenges create higher risks of coercion. Consequently, Indian courts have developed a nuanced jurisprudence around retracted confessions, as discussed in the following sections.

Evidentiary Value of Retracted Confessions: A retracted confession is one where the accused initially confesses to the crime but subsequently withdraws or denies the statement. The Bhartiya Sakshya Adhiniyam does not explicitly regulate retracted confessions, leaving their treatment to judicial interpretation. The Supreme Court in *Subramania Goundan v State of Madras*³⁰ held that a retracted confession can form the basis of a conviction if it is found to be voluntary and true. However, as a rule of prudence, courts usually seek corroboration. The Court

²⁶ *State of UP v Deoman Upadhyaya* AIR 1960 SC 1125

²⁷ *Indrajit Das v State of Tripura and Ors* (2023) INSC 175

²⁸ *State of Punjab v Barkat Ram* AIR 1962 SC 276

²⁹ *Miranda v Arizona* (1966) 384 US 436

³⁰ *Subramania Goundan v State of Madras* AIR 1958 SC 66

emphasised that retraction does not automatically destroy evidentiary value but necessitates closer scrutiny.

This principle was reiterated in *Balbir Singh v State of Punjab*³¹, where the Court observed that the test is whether the confession inspires confidence and appears consistent with other evidence. Retracted confessions, if corroborated by material facts, may sustain a conviction. However, the Court cautioned against blind reliance, recognising the inherent risk of coercion or fabrication.

The case of *Kehar Singh*³² further illustrated this point. The accused had retracted their confessions, alleging coercion. The Court nonetheless considered the statements but insisted on corroboration from independent evidence before convicting. This demonstrates the judicial balancing act between acknowledging retraction and assessing truthfulness.

In a 2014 case, the Supreme Court opined that- Retraction does not always dilute or reduce or wipe out the evidentiary value of a confessional statement. This case relied on the principle that the amount of credibility to be attached to a retracted confession would depend upon the facts and circumstances of each case.³³

Academic commentary supports this approach, arguing that retraction does not erase probative force but heightens the need for corroboration³⁴. Critics, however, warn that in a system prone to custodial abuse, even corroborated retracted confessions may be unreliable. The judiciary's response, therefore, has been cautious but not uniformly consistent.

The Rule of Prudence and Corroboration: One of the most significant judicial principles concerning retracted confessions is the requirement of corroboration. Though not a rule of law, it is treated as a rule of prudence, aimed at preventing wrongful convictions.

In *Haroon Haji Abdulla v State of Maharashtra*³⁵, the Supreme Court held that it is unsafe to base a conviction solely on a retracted confession without corroboration. The Court observed

³¹ *Balbir Singh v State of Punjab* AIR 1957 SC 216

³² *Kehar Singh and Ors v State (Delhi Administration)* (1988) 3 SCC 609

³³ *Kalawati and Anr v State of Himachal Pradesh* AIR 1953 SC 131

³⁴ PSA Pillai, *Criminal Law* (12th edn, Lexis Nexis 2014) 214

³⁵ *Haroon Haji Abdulla v State of Maharashtra* AIR 1968 SC 832

that corroboration need not cover every detail but must relate to material particulars connecting the accused with the crime. Similarly, in *Sarwan Singh Rattan Singh v State of Punjab*, the Court insisted that prudence requires corroboration before acting on a retracted confession, as the possibility of false implication cannot be excluded. This judicial caution reflects the recognition that retraction signals potential unreliability.

Yet, there are cases where courts have upheld convictions primarily on retracted confessions. In *Pyare Lal Bhargava*³⁶, the Court noted that if the confession is voluntary, truthful, and inspires confidence, corroboration may not be strictly necessary. This flexibility has led to doctrinal ambiguity, with some judgments treating corroboration as indispensable and others as optional. Comparative perspectives shed light on this divergence. English law, under PACE, effectively treats corroboration as inherent in voluntariness assessment, while US jurisprudence requires that confessions be excluded unless clear procedural safeguards are met. Indian law, lacking such codified standards, relies heavily on judicial discretion, resulting in inconsistent application. Scholars argue that this inconsistency undermines the predictability of criminal trials, leaving trial courts with wide discretion that may jeopardise fairness.

CONFESSIONS IN SPECIAL STATUTES – A STRICTER LENS

Indian courts have had to grapple with confessions made under special legislations such as the Terrorist and Disruptive Activities (Prevention) Act (TADA)³⁷ and the Narcotic Drugs and Psychotropic Substances Act (NDPS)³⁸. These statutes often provided wider admissibility to confessions made to police officers, raising serious concerns about voluntariness and abuse.

In *Kartar Singh v State of Punjab*, the Supreme Court upheld the constitutional validity of TADA's confession provisions but simultaneously laid down stringent guidelines for recording such confessions.³⁹ The Court noted that while extraordinary legislation may allow broader admissibility, judicial scrutiny must be heightened to prevent misuse. This shows that the principle of voluntariness retains primacy, even under exceptional statutory frameworks.

³⁶ *Pyare Lal Bhargava v State of Rajasthan* AIR 1963 SC 1094

³⁷ Terrorist and Disruptive Activities (Prevention) Act 1987, s 15

³⁸ Narcotic Drugs and Psychotropic Substances Act 1985, s 67

³⁹ *Kartar Singh v State of Punjab* (1994) 3 SCC 569

Later, in *State (NCT of Delhi) v Navjot Sandhu (Parliament Attack Case)*, confessions under POTA were subjected to strict scrutiny.⁴⁰ The Court held that any procedural irregularity or doubt regarding voluntariness would vitiate the evidentiary value of such confessions. Similarly, NDPS cases have witnessed courts demanding unimpeachable proof of voluntariness before acting upon retracted confessions. The message is clear: statutory leeway cannot dilute the constitutional guarantee against self-incrimination.

Judicial Balancing of Retracted Confessions: The judicial attitude towards retracted confessions has often been characterised by a balancing exercise between two competing imperatives: protecting the accused from wrongful conviction and ensuring that guilty persons are not let off on mere technicalities.

In *Pyare Lal Bhargava v State of Rajasthan*, the Court upheld a conviction primarily based on a retracted confession, but only after finding strong corroborative evidence linking the accused to the crime.⁴¹ This illustrates that courts do not discard retracted confessions outright but instead test their reliability against the evidentiary record.

However, in *Kashmira Singh v State of Madhya Pradesh*, the Supreme Court overturned a conviction because it was based almost solely on a co-accused's confession, which was later retracted.⁴² Here, the Court's emphasis was on ensuring that no conviction rests on shaky or doubtful grounds. The balance, therefore, lies in giving due weight to confessions without elevating them above the broader evidentiary fabric of the case.

This judicial balancing underscores the philosophy that criminal justice is not merely about punishing wrongdoers but about doing so fairly, ensuring that the evidentiary process itself inspires confidence.

A BRIEF COMPARATIVE PERSPECTIVE - UK & US

A brief comparative glance reveals that Indian law, despite its peculiar challenges, aligns broadly with common law principles. In the UK, the Police and Criminal Evidence Act 1984 (PACE) established a comprehensive framework ensuring that confessions are admissible only if

⁴⁰ *State (NCT of Delhi) v Navjot Sandhu* (2005) 11 SCC 600

⁴¹ *Pyare Lal Bhargava v State of Rajasthan* AIR 1963 SC 1094

⁴² *Kashmira Singh v State of Madhya Pradesh* AIR 1952 SC 159

obtained voluntarily and in accordance with prescribed safeguards. Courts retain discretion to exclude confessions where admission would adversely affect the fairness of proceedings.

In the US, the “Miranda doctrine” flowing from *Miranda v Arizona*⁴³ requires suspects to be informed of their rights before custodial interrogation, including the right to remain silent and to have counsel. A confession without such warnings risks exclusion. The doctrine of “due process voluntariness” under the Fifth and Fourteenth Amendments ensures that coerced confessions are inadmissible.

Compared to these systems, Indian law lacks a statutory equivalent to Miranda warnings or PACE safeguards, but judicial precedents have tried to fill the gap. By requiring corroboration of retracted confessions and stressing voluntariness, Indian courts have achieved functional parity with global trends, albeit through judicial innovation rather than legislative codification.

FINDINGS OF THE RESEARCH

Based on the above thorough analysis of statutory provisions and judicial interpretations of Supreme Court Cases, we can figure out the following findings, which concisely point out the current legal treatment of retracted confessions to determine their evidentiary value in the Indian Courts, mainly under the Bhartiya Sakshya Adhiniyam, 2023:

Voluntariness as Paramount: The first and most significant finding that emerges from the judicial and doctrinal analysis is that voluntariness is the bedrock principle governing confessions. Judicial consensus has consistently highlighted that voluntariness is the indispensable foundation of any admissible confession. Courts in India, much like their counterparts in other jurisdictions, have reiterated that “unless the accused speaks free of threat, inducement, or promise, the confession lacks credibility and threatens constitutional guarantees”.

Retraction Creates Doubt: The second important finding is that retraction by an accused fundamentally alters the evidentiary value of a confession. “When an accused retracts a confession, the statement’s evidentiary strength diminishes substantially. Courts thereafter adopt a heightened degree of suspicion, treating the retraction as a signal that the original

⁴³ *Miranda v Arizona* (1966) 384 US 436

confession may have been tainted.” This judicial caution reflects a commitment to fairness and the prevention of wrongful convictions.

Corroboration as Safeguard: Another finding concerns the doctrine of corroboration, which functions as a vital protective device. Indian courts have evolved a pragmatic doctrine whereby “retracted confessions are never viewed in isolation but require corroborative support.” This approach prevents convictions based on fragile testimony alone, anchoring judgments in independent evidence. The safeguard preserves both judicial integrity and the accused’s right to a fair trial.

Special Statutes Demand Stricter Scrutiny: While “extraordinary statutes such as TADA, and NDPS widened admissibility of confessions”, the Supreme Court imposed rigorous safeguards to prevent abuse. Judicial vigilance, in this context, underscores recognition that exceptional powers, if unchecked, could erode fundamental rights and damage public trust in the criminal justice process.

Global Convergence: Despite distinct statutory formulations, “Indian judicial interpretation shows increasing alignment with international approaches that privilege voluntariness and procedural fairness.” The UK’s PACE framework and the US *Miranda* principles resonate with Indian jurisprudence, evidencing a gradual convergence toward global standards that aim to prevent coercion and safeguard liberty.

SUGGESTIONS

Based on the above findings, the following are some appropriate and viable suggestions that can be implemented to address the issues and doctrinal ambiguity regarding the evidentiary application of retracted confessions:

Legislative Codification: A pressing reform would be to codify, within the *Bhartiya Sakshya Adhiniyam* or a dedicated statute, clear provisions governing the admissibility of retracted confessions. Borrowing inspiration from the UK’s Police and Criminal Evidence Act (PACE), such codification could expressly prohibit reliance on involuntary statements and require strict adherence to procedural safeguards. This would bring uniformity, reduce judicial inconsistency, and provide clear legislative guidance, thereby enhancing fairness and predictability in adjudication.

Miranda-Type Safeguards: The introduction of mandatory custodial warnings, akin to the Miranda rights in the United States, could transform interrogation practices in India. Informing an accused of their right to silence, access to legal counsel, and consequences of self-incrimination before questioning would not only align India with international best practices but also reinforce Article 20(3) of the Constitution. Such safeguards would deter coercive practices and ensure confessions, when made, carry genuine evidentiary value.

Training of Investigators: Reform cannot succeed without changing investigative culture. Police officers should be systematically trained to understand that confessions extracted by intimidation, inducement, or custodial violence not only violate human rights but also fail legal scrutiny, resulting in failed prosecutions. Regular sensitisation workshops, combined with stronger accountability mechanisms, could encourage ethical investigation techniques. Over time, this would foster greater professionalism and reliability in evidence collection, reducing dependence on questionable confessional statements.

Stronger Judicial Instructions: Judicial prudence can be strengthened by requiring trial courts to explicitly document the reasons for admitting or relying upon retracted confessions. Such recorded reasoning would increase accountability, allow higher courts to review the logic applied, and enhance transparency for both the accused and the public. Structured judicial guidance could also minimise arbitrariness and establish consistency across cases, thereby fortifying the balance between protecting individual rights and enabling legitimate conviction of offenders.

Empirical Research: There is a serious need for systematic, empirical research into how retracted confessions are treated in Indian courts. Current jurisprudence is rich in principles but lacks statistical data on actual acquittal and conviction outcomes linked to retracted statements. Universities, law commissions, and judicial academies could collaborate on such studies. Evidence-based policymaking, supported by empirical findings, would help identify systemic flaws, calibrate reforms, and design safeguards that are both effective and contextually grounded.

CONCLUSION

The jurisprudence on confession, retraction, and conviction reveals the Indian Supreme Court's delicate balancing act between evidentiary utility and constitutional protection. Confessions

remain powerful yet problematic pieces of evidence: they are capable of securing convictions, but their reliability diminishes drastically when retracted. The Court has consistently underscored voluntariness as the bedrock of admissibility, recognising that confessions extracted through coercion, inducement, or custodial violence corrode both fairness and justice.

At the same time, the Court's engagement with special statutes like TADA and NDPS demonstrates a nuanced approach, i.e. while acknowledging legislative intent to strengthen prosecutorial tools, it has subjected confessions under such laws to stricter scrutiny. This reflects a jurisprudential consensus that constitutional guarantees against self-incrimination and wrongful conviction cannot be compromised, even in exceptional regimes.

Comparative perspectives from the UK and the US further affirm that fairness and voluntariness are global benchmarks, highlighting the convergence of Indian law with international standards. However, the absence of legislative codification continues to leave judges with wide discretion, leading to inconsistency in outcomes.

So, overall, the analysis suggests that reform is necessary as suggested above, codified safeguards, improved police training, judicial transparency, and empirical study could bridge the gap between principles and pragmatic reality. Ultimately, the path forward must reconcile two competing imperatives: the protection of individual rights and the effective punishment of offenders. A principled, uniform approach will not only reduce miscarriages of justice but also strengthen public faith in the criminal justice system.