

# **Bharatiya Sakshya Adhinyam, 2023 (Law of Evidence)**

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*KSLU LL.B. — Complete Exam-Ready Study Bundle (BSA 2023)*

KSLU LL.B. Study Bundle

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Notes Version: **v1.0**

June 2026

**Read this first page, then go to your unit.** This single file holds the whole subject: how to use the notes, the rules that win marks, and all units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real exam questions.



△ **A word about the new law.** This subject — **Law of Evidence** — is now taught under the **Bharatiya Sakshya Adhinyam, 2023 (BSA)**, which replaced the **Indian Evidence Act, 1872 (IEA)** with effect from **1 July 2024**. These notes are written in **BSA sections**, with the old IEA section shown in brackets where it helps you read an older judgment or past paper.

## How to Use These Notes

**What this is.** A complete, exam-focused bundle covering all five units of KSLU Law of Evidence (BSA, 2023). Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the years listed under each question tell you where to spend revision time.

**Who it is for.** The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them).

**What is inside every topic** — the same blocks, in the same order:

Block	Its job	The mark it earns
<b>Previous Year Questions</b>	Real questions + years asked	What to prepare and how often it repeats
<b>The Hook</b>	A true story / landmark-case opener	Memorable; a strong opening line
<b>Jurist / Statutory Quotes</b>	Exact definitions & sections	Examiners reward precise authority
<b>In Simple Terms</b>	Plain-English translation	Ensures you <i>understand</i>
<b>The Visual (chart)</b>	Maps the topic structure	Recall and structure at a glance
<b>Case Laws</b>	Landmark judgments + ratio	Case names with years are pure marks
 <b>Tracker +  Risk Alert</b>	Answer plan + applied IRAC	Converts knowledge into a scoring answer

Each unit closes with a **Quick Revision & Case Law Table** for the final hour.

**The 4-step study plan.** (1) Read the PYQ box first. (2) Understand, then memorise. (3) Trace the chart from memory. (4) Rehearse the Tracker and one Risk Alert.

## The 10 Rules That Win Marks

- Lead with a definition + roadmap.**
- Follow the Blueprint Tracker** stage by stage.
- Name the case AND the year** every time.
- Quote the exact BSA section** (note the old IEA section if it helps).
- Translate every Latin maxim in [brackets].**
- Use the four IRAC headings** for problems; spot the decoy fact.
- Always give a definite verdict.**
- Use the chart's structure** to organise the body.
- Close with a short, confident conclusion.**
- Manage time** so no high-mark question is left unwritten.

# BSA Quick Section Reference

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*The high-frequency provisions, by topic. Citing the right BSA section is pure marks.*

<b>Topic</b>	<b>BSA Section (← IEA)</b>
Definitions; evidence; proved/disproved	<b>S.2</b> (← IEA S.3)
May presume / shall presume / conclusive proof	<b>S.2(1)</b> (← IEA S.4)
Evidence of facts in issue & relevant facts	<b>S.5</b> (← IEA S.5)
Res gestae — same transaction	<b>S.4</b> (← IEA S.6)
Occasion, cause & effect	<b>S.5</b> (← IEA S.7)
Motive, preparation & conduct	<b>S.6</b> (← IEA S.8)
Explanatory/ introductory facts; TIP	<b>S.7</b> (← IEA S.9)
Conspiracy	<b>S.8</b> (← IEA S.10)
Alibi; facts inconsistent	<b>S.9</b> (← IEA S.11)
Admissions	<b>Ss 15-21</b> (← IEA Ss 17-23)
Admission not conclusive	<b>S.25</b> (← IEA S.31)
Confession — voluntariness; to police; custody	<b>Ss 22-23</b> (← IEA Ss 24-26)
Discovery of fact	<b>S.23(2)</b> (← IEA S.27)
Confession of co- accused	<b>S.24</b> (← IEA S.30)
Dying declaration / statements by the dead	<b>S.26</b> (← IEA S.32)

<b>Topic</b>	<b>BSA Section (← IEA)</b>
Relevance of judgments	<b>Ss 34-38</b> (← IEA Ss 40-44)
Expert opinion; Examiner of Electronic Evidence	<b>Ss 39-45</b> (← IEA Ss 45-51/45A)
Character evidence (civil & criminal)	<b>Ss 46-50</b> (← IEA Ss 52-55)
Facts which need not be proved; judicial notice	<b>Ss 51-53</b> (← IEA Ss 56-58)
Oral evidence must be direct	<b>Ss 54-55</b> (← IEA Ss 59-60)
Primary & secondary evidence	<b>Ss 57-58</b> (← IEA Ss 62-63)
When secondary evidence admissible	<b>S.60</b> (← IEA S.65)
Electronic/digital records; certificate	<b>Ss 61-63</b> (← IEA S.65A/65B)
Public & private documents; proof	<b>Ss 64-93</b> (← IEA Ss 74-90)
Exclusion of oral by documentary evidence	<b>Ss 94-103</b> (← IEA Ss 91-100)
Burden of proof; facts within knowledge	<b>Ss 104-109</b> (← IEA Ss 101-106)
Presumptions; legitimacy; dowry death	<b>Ss 110-119</b> (S.116/S.118 ← IEA S.112/S.113B)
	<b>Ss 121-123</b> (← IEA Ss 115-117)

<b>Topic</b>	<b>BSA Section (← IEA)</b>
Estoppel; tenancy; acceptor of bill	
Competence to testify	<b>Ss 124-127</b> (← IEA Ss 118-121)
Privileged communications	<b>Ss 128-139</b> (← IEA Ss 122-129)
Examination-in- chief / cross / re- examination	<b>S.143</b> (← IEA S.138)
Leading questions	<b>S.146</b> (← IEA Ss 141-143)
Lawful questions in cross; credit	<b>Ss 147-150</b> (← IEA Ss 145-155)
Accomplice / approver	<b>S.138</b> (← IEA S.133)
Hostile witness; cross of own witness	<b>S.157</b> (← IEA S.154)
Corroboration	<b>Ss 159-160</b> (← IEA Ss 157-158)
Improper admission/ rejection of evidence	<b>S.169</b> (← IEA S.167)

**Disclaimer.** A study aid, not a substitute for the bare BSA, 2023 and prescribed texts. Cross-check every section number against the official text. © Medha-Academy.in · KSLU LL.B. · For personal academic use.



# UNIT 1 – Introduction, Relevancy of Facts & Admissions

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**Bharatiya Sakshya Adhinyam, 2023 (Law of Evidence) · KSLU LL.B. · Medha-Academy.in**

**Unit focus.** What “evidence” means and its kinds; the difference between **relevancy** and **admissibility**; the salient features of the **BSA, 2023**; the chain of **relevant/connected facts** (*res gestae, motive, preparation, conduct, occasion, alibi*); the three degrees of presumption — **may presume, shall presume, conclusive proof**; and **admissions** — who makes them, when they are relevant, and how they differ from a confession.

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## Table of Contents

1. Meaning & Kinds of Evidence; Relevancy v. Admissibility; the BSA
2. Relevancy of Connected Facts — Res gestae, Motive, Preparation, Conduct & Alibi
3. May Presume, Shall Presume & Conclusive Proof
4. Admissions — Meaning, Relevancy & Distinction from Confession
5. Quick Revision & Case Law Table

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## 1. Meaning & Kinds of Evidence; Relevancy v. Admissibility; the BSA

### **Previous Year Questions**

- **[16M]** What is evidence? State the different kinds of evidence. (2012, 2014, 2018, 2019, 2021, 2022; BSA 2025)
- **[16M]** Define evidence. “The rules of evidence are in general the same in civil and criminal cases” — discuss. (2015, 2017; BSA 2025)
- **[Short Note]** Distinguish between relevancy and admissibility. (2019, 2021, 2022)

## The Hook

When a court convicts on the strength of a single chain of circumstances — a missing weapon, a stained shirt, a lie told at the wrong moment — it is the **law of evidence** doing the work. The BSA, 2023 is the rule-book that decides *what* a court may look at and *how much* it may believe.

## What is “Evidence”? Its kinds

Evidence is the material by which a fact is proved or disproved before a court. Under **Section 2(1)(e), BSA** it means and includes (i) **oral evidence** — all statements the court permits or requires witnesses to make; and (ii) **documentary evidence** — all documents, including **electronic and digital records**, produced for inspection.

The kinds of evidence:

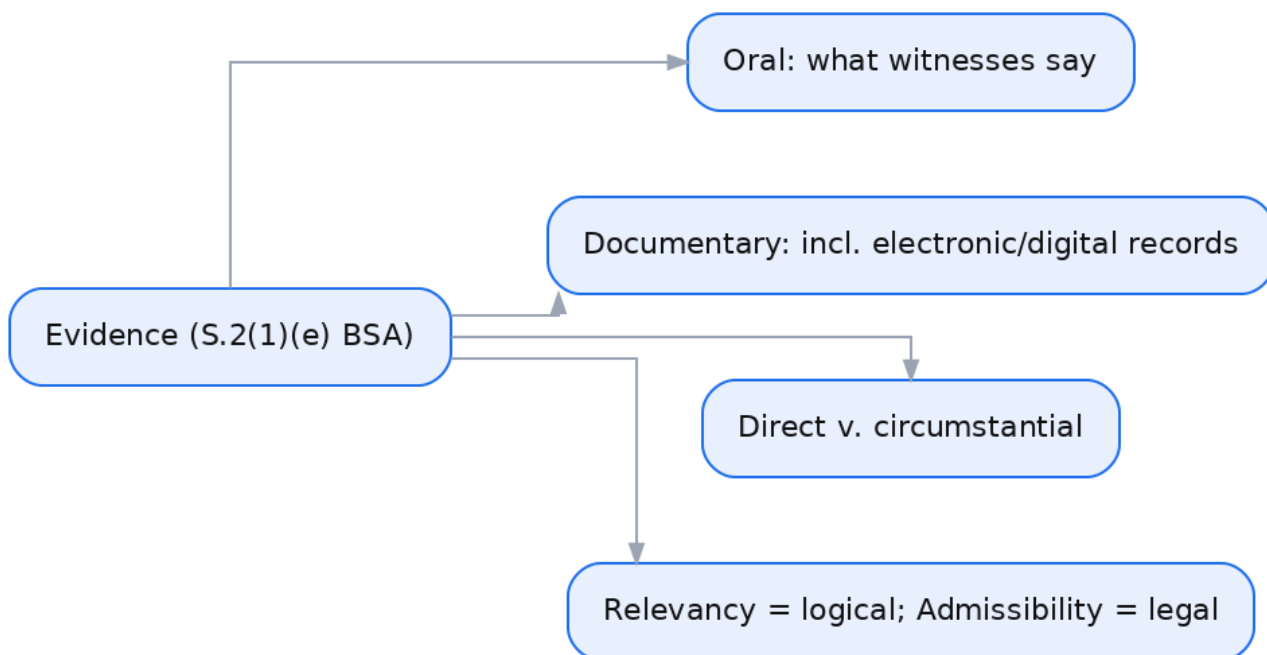
1. Oral v. documentary — what witnesses say, versus what documents show.
2. Primary v. secondary — the original document, versus copies/substitutes.
3. Direct v. circumstantial — evidence of the fact itself, versus facts from which the fact in issue is *inferred*. Circumstantial evidence must form a complete chain pointing only to guilt (*Hanumant*).
4. Real (material) evidence — the physical object or the court’s own inspection.

**Relevancy v. admissibility.** Relevancy is logical (is the fact connected?); admissibility is legal (does the law allow it in?). All admissible evidence is relevant, but not all relevant evidence is admissible — a confession to the police is logically relevant but legally inadmissible.

**Section 2(1)(e), BSA:** “Evidence” means and includes all statements which the court permits or requires to be made before it by witnesses (oral evidence) and all documents including electronic or digital records produced for inspection (documentary evidence).

**In Simple Terms:** Evidence is anything the court uses to decide what happened — what people say and what documents show. Relevancy asks whether a fact is *connected*; admissibility asks whether the law lets it *in*. The same rules of evidence apply broadly to civil and criminal cases, the main difference being the **standard of proof** (preponderance v. beyond reasonable doubt).

## The Visual



Sketch this in the exam — the 30-second version earns presentation marks.

## Case Laws

- **Hanumant v. State of M.P. (1952)** — circumstantial evidence must form a chain so complete that it excludes every hypothesis but guilt.
- **Sharad Birdhichand Sarda v. State of Maharashtra (1984)** — the five “golden principles” (panchsheel) for conviction on circumstantial evidence.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** evidence is the court’s raw material; define + classify.
- **STAGE 2** → **Definition (S.2(1)(e)):** oral + documentary (incl. electronic).
- **STAGE 3** → **Kinds:** oral/documentary, primary/secondary, direct/circumstantial, real.
- **STAGE 4** → **Relevancy v. admissibility; civil v. criminal (same rules, different standard).**
- **STAGE 5** → **Verdict:** evidence is the gatekeeper of judicial truth under the BSA.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A wishes to lead **oral evidence to prove the genuineness of a written document**. (Decoy: orality offered where a document exists.)

- **I — ISSUE:** May oral evidence be substituted for the document itself?
- **R — RULE:** Ss 94-103 — where the matter is reduced to a document, the document must be proved; oral evidence is excluded (see Unit 3).
- **A — ANALYSIS:** the contents must be proved by the document (primary/secondary evidence), not by oral testimony of what it says; oral evidence is admissible only for limited collateral purposes.
- **C — CONCLUSION:** A cannot prove the contents of the document by oral evidence; he must produce the document.

## 2. Relevancy of Connected Facts — Res gestae, Motive, Preparation, Conduct & Alibi

### Previous Year Questions

- **[16M]** Explain the relevancy of facts forming part of the same transaction (*Res gestae*). (2012, 2013, 2015, 2016, 2019, 2020, 2022, 2024; BSA 2026)
- **[16M]** Discuss the relevancy of facts showing motive, preparation and conduct. (2014, 2016, 2017, 2018, 2021, 2024)
- **[16M]** Explain the relevancy of facts showing occasion, cause or effect / state of mind or body / introductory facts. (2013, 2015, 2019, 2022, 2023)
- **[Short Note]** Test Identification Parade; Plea of Alibi. (2022, 2025)

### The Hook

A man is found dead; the accused had bought poison the day before, quarrelled with the deceased that morning, and fled that night. None of these *is* the murder — but each is a **connected fact** the law lets in because together they tell the story. Sections 4-14 of the BSA are the grammar of that story.

### The connected-facts chain (Ss 4-14)

1. Res gestae — same transaction (S.4 ← IEA S.6) — facts so connected with the fact in issue as to form part of the **same transaction** are relevant, though not themselves in

issue. The test is **contemporaneity and spontaneity** — a statement made while the event is happening, before time to fabricate.

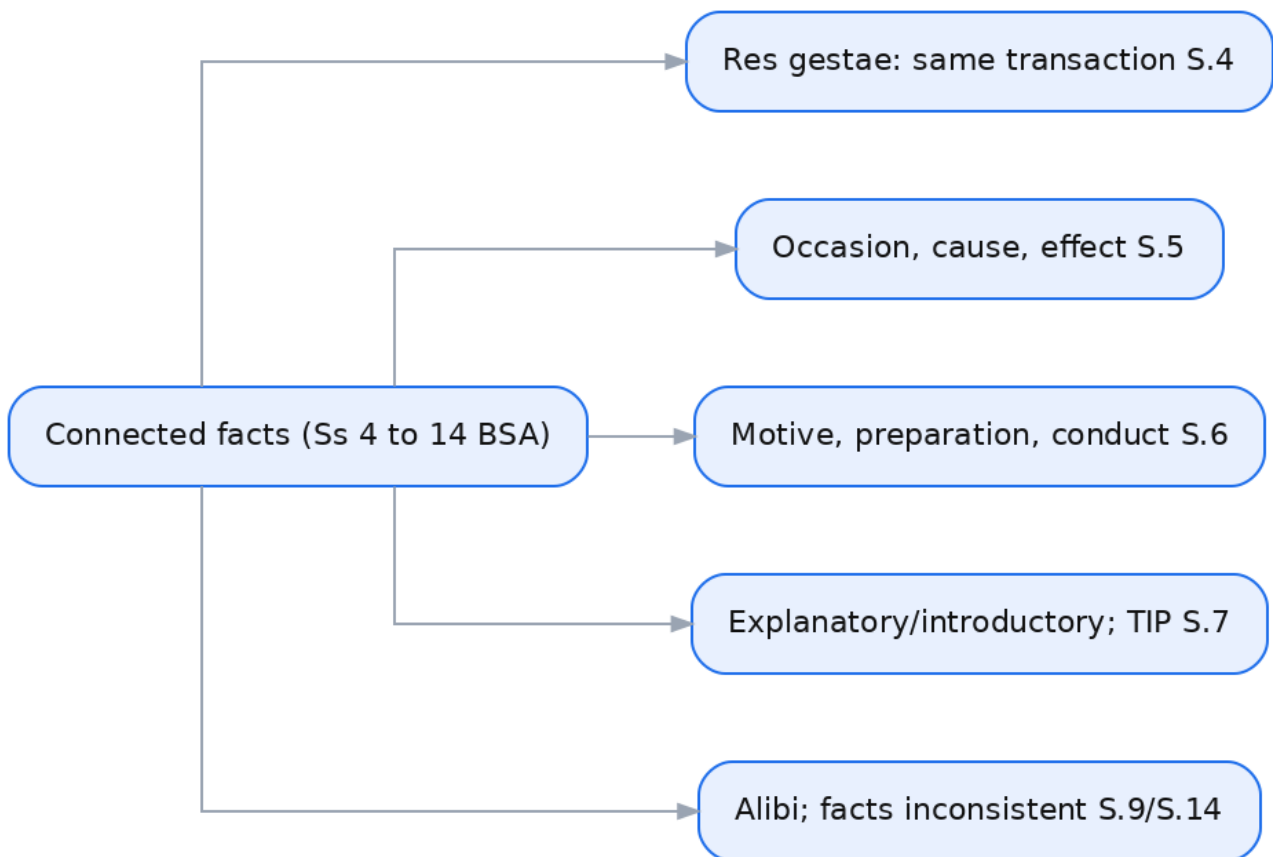
2. Occasion, cause & effect (S.5 ← IEA S.7) — facts that are the occasion, cause or effect of the fact in issue (e.g. marks of a struggle at the scene).
3. Motive, preparation & conduct (S.6 ← IEA S.8) — the **motive** behind a fact, the **preparation** for it, and the previous or subsequent **conduct** of a party (e.g. procuring poison; absconding after the crime).
4. Explanatory & introductory facts (S.7 ← IEA S.9) — facts necessary to explain or introduce a relevant fact (including **Test Identification**).
5. Conspiracy (S.8 ← IEA S.10) — where there is reasonable ground to believe in a conspiracy, anything **said, done or written by any one conspirator** in reference to the common design is a relevant fact **against each of the others**, for the purpose of proving the conspiracy and each conspirator's participation in it.
6. Facts not otherwise relevant (S.9/S.14) — facts that become relevant because they are **inconsistent** with, or make **highly probable/improbable**, a fact in issue — this is the home of the **plea of alibi** (the accused was elsewhere).

**Plea of alibi:** *alibi* [elsewhere] — if the accused proves he was so far away that he could not have committed the act, the fact is relevant; the **burden of establishing alibi is on the accused**, and it must be proved with certainty.

**Section 4, BSA:** *facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction are relevant, whether they occurred at the same time and place or at different times and places.*

**In Simple Terms:** The court does not look at the crime in isolation. It also looks at what led up to it (occasion, cause, motive, preparation), what surrounded it (same transaction/ *res gestae*), and what followed (conduct, absconding). A spontaneous statement made *during* the event is *res gestae*; a considered narration *afterwards* is not.

## The Visual



Sketch this in the exam — the 30-second version earns presentation marks.

## Case Laws

- **Ratten v. Reginam (1972)** — a telephone call by the victim during the shooting was admitted as res gestae (spontaneity).
- **Gentela Vijayavardhan Rao v. State of A.P. (1996)** — a statement made after an interval, allowing time to concoct, is **not** res gestae.
- **Dudh Nath Pandey v. State of U.P. (1981)** — plea of alibi must be proved by the accused with certainty; mere plausibility is not enough.

## ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** the crime is read with its connected facts.
- **STAGE 2** → **Res gestae (S.4):** same transaction; test of contemporaneity & spontaneity.
- **STAGE 3** → **Motive/preparation/conduct (S.6); occasion/cause/effect (S. 5).**
- **STAGE 4** → **Cases:** Ratten (admitted) v. Gentela (rejected); alibi (Dudh Nath).
- **STAGE 5** → **Verdict:** connected facts are relevant within Ss 4-14, tested by contemporaneity.

## ⚠ **FACT-PATTERN RISK ALERT**

**Scenario:** A hears that C has been murdered, reaches the spot, and four persons carrying C's body tell him "B murdered C and ran away." Is their statement part of res gestae? (Decoy: a narration made after the event.)

- **I – ISSUE:** Is a statement made after the event, to a newcomer, res gestae?
- **R – RULE:** S.4 — only statements **contemporaneous** with the transaction, made without opportunity to fabricate, are res gestae (Gentela).
- **A – ANALYSIS:** the four persons spoke after the murder, on A's arrival, with time and opportunity to concoct — the spontaneity is lost.
- **C – CONCLUSION:** the statement does **not** form part of res gestae and is not relevant under S.4.

## 3. May Presume, Shall Presume & Conclusive Proof

### Previous Year Questions

- **[16M]** Explain "may presume", "shall presume" and "conclusive proof" with illustrations. (2014, 2016; BSA 2025, 2026)
- **[16M]** Explain the expressions as used in the Act. (BSA 2025-June)

## The Hook

How much must a court believe before it acts? The BSA gives three settings on the dial — a **discretion** to presume, a **command** to presume, and a presumption that **cannot be rebutted at all**.

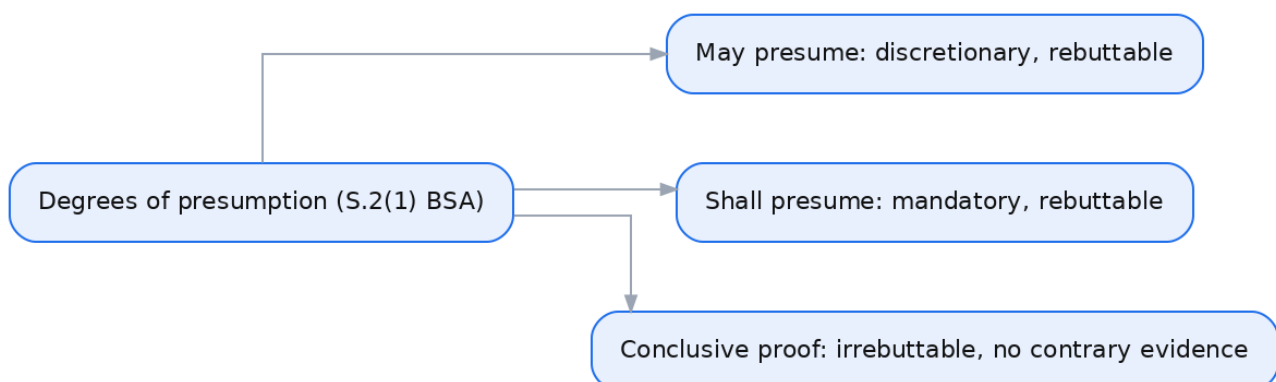
## The three degrees (S.2(1) ← IEA S.4)

1. May presume (rebuttable, discretionary) — the court **may** regard a fact as proved unless disproved, or **may call for proof**. It is a matter of judicial **discretion**.  
(e.g. presumption that a man in possession of stolen goods soon after a theft is the thief or a receiver.)
2. Shall presume (rebuttable, mandatory) — the court **must** regard the fact as proved **unless and until it is disproved**; the court has **no discretion** to call for proof, but the presumption **can be rebutted**. (e.g. presumption of genuineness of certified copies.)
3. Conclusive proof (irrebuttable) — on proof of one fact, another is declared proved, and the court **shall not allow evidence to disprove it**. This is the strongest — no rebuttal is permitted. (e.g. legitimacy of a child born during a valid marriage, subject to non-access.)

**Section 2(1), BSA:** “shall presume” — the court shall regard a fact as proved unless and until it is disproved; “conclusive proof” — on proof of one fact, the court shall regard the other as proved and shall not allow evidence to be given to disprove it.

**In Simple Terms:** “May presume” = the court can choose to believe it (discretion). “Shall presume” = the court must believe it unless the other side disproves it (mandatory but rebuttable). “Conclusive proof” = the court must believe it and won’t even hear evidence against it (final).

## The Visual



Sketch this in the exam — the 30-second version earns presentation marks.

## Case Laws

- **Sodhi Transport Co. v. State of U.P. (1986)** — explained “shall presume” as a mandatory but rebuttable presumption.
- **Izhar Ahmad Khan v. Union of India (1962)** — nature and effect of conclusive proof and rebuttable presumptions.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** three settings on the dial of belief.
- **STAGE 2** → **May presume:** discretion to presume or call for proof.
- **STAGE 3** → **Shall presume:** mandatory but rebuttable; no discretion.
- **STAGE 4** → **Conclusive proof:** irrebuttable; contrary evidence shut out; illustrations.
- **STAGE 5** → **Verdict:** ascending order of strength — discretion, command, finality.

### ⚠️ FACT-PATTERN RISK ALERT

**Scenario:** A statute says a certified copy “shall be presumed” genuine; the opponent offers evidence that it is forged. Can he? (Decoy: “shall presume” sounds final.)

- **I — ISSUE:** Is a “shall presume” fact open to rebuttal?
- **R — RULE:** S.2(1) — “shall presume” is mandatory **but rebuttable** “unless and until disproved”; only “conclusive proof” shuts out contrary evidence.
- **A — ANALYSIS:** the opponent may lead evidence of forgery; the presumption stands only until disproved.
- **C — CONCLUSION:** yes — the opponent may rebut it; the court must then weigh the evidence.

## 4. Admissions — Meaning, Relevancy & Distinction from Confession

### Previous Year Questions

- **[16M]** Define admission. State the persons whose admissions are relevant. (2012, 2013, 2015, 2017, 2019, 2021; BSA 2025, 2026)
- **[16M]** Explain the relevancy of admissions in a civil case. (2014)
- **[16M]/[SN]** Distinction between admission and confession. (2012, 2014, 2020)

### The Hook

A party's own words can sink his case. When a man, before any dispute, writes that the goods were defective or that he owed the money, that statement — an **admission** — comes back to be used against him. But the law also fences admissions with safeguards, because words are easily taken out of context.

### Admissions (Ss 15-21 ← IEA Ss 17-23)

An admission (S.15) is a statement, oral or documentary or electronic, which suggests an inference as to a fact in issue or a relevant fact, made by a person and in circumstances the Act specifies.

#### Persons whose admissions are relevant (Ss 16-18):

1. Parties, agents, interested persons & predecessors (S.16) — parties to the proceeding and their **authorised agents**; persons with a **proprietary or pecuniary interest** in the subject-matter (during the continuance of that interest); and persons from whom the parties **derive their interest** (predecessors-in-title).
2. Persons whose position must be proved (S.17) — persons whose **liability or position** it is necessary to prove as against a party.
3. Persons expressly referred to (S.18) — a referee expressly pointed to ("*go and ask C*"), whose statement binds the party who referred to him.

#### Evidentiary value & limits:

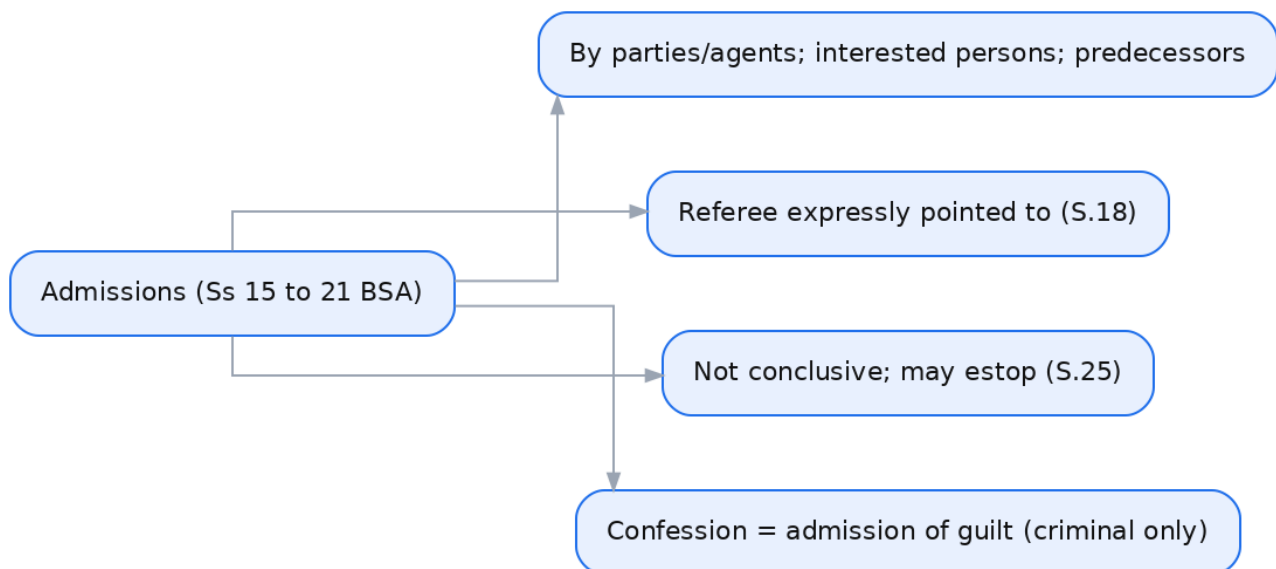
1. Not conclusive (S.25 ← IEA S.31) — admissions are **not conclusive proof**, but they may operate as an **estoppel** and shift the burden; they bind the maker unless explained.
2. Self-serving rule (S.19 ← IEA S.21) — a person **cannot prove his own admission** in his favour, except in stated cases.

**Admission v. confession:** a **confession** is a species of admission confined to **criminal** cases and is an admission of guilt by the accused; an **admission** is the genus, available in civil and criminal cases, and is **not** necessarily of guilt.

**Section 15, BSA:** *an admission is a statement, oral or documentary or contained in electronic form, 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.*

**In Simple Terms:** An admission is a statement by a party (or someone connected to him) that goes against his own case. It is strong but **not final** — the maker can explain it away. A confession is a narrower thing: an admission of guilt by an accused in a criminal case.

## The Visual



Sketch this in the exam — the 30-second version earns presentation marks.

## Case Laws

- **Bharat Singh v. Bhagirathi (1966)** — admissions are substantive evidence and may be proved against the maker, though not conclusive.
- **CIT v. S. Khader Khan Son (2012)** — an admission is not conclusive and can be shown to be wrong or made under a mistake.

## ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** a party's own words used against him.
- **STAGE 2** → **Definition (S.15); persons whose admissions bind (Ss 16-18).**
- **STAGE 3** → **Evidentiary value:** not conclusive (S.25); self-serving bar (S.19).
- **STAGE 4** → **Admission v. confession (genus v. species).**
- **STAGE 5** → **Verdict:** admissions are weighty but rebuttable evidence under Ss 15-21.

## ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A sues B for a loan; B denies it. A wants to prove **his own earlier statement to C** that he had lent the money to B. Can he? (Decoy: a self-serving prior statement.)

- **I — ISSUE:** May a party prove his own admission in his favour?
- **R — RULE:** S.19 — a person **cannot** prove his own statement in his own favour, save in the limited exceptions.
- **A — ANALYSIS:** A's statement to C is self-serving and falls in none of the exceptions; it cannot be led to prove the loan.
- **C — CONCLUSION:** A cannot prove his own statement to C; he must prove the loan by other admissible evidence.

## Quick Revision & Case Law Table

### One-line memory hooks

- **Evidence (S.2(1)(e)):** oral + documentary (incl. electronic); relevancy = logical, admissibility = legal.
- **Res gestae (S.4):** same transaction; contemporaneity & spontaneity (*Ratten* yes, *Gentela* no).
- **Motive/preparation/conduct (S.6):** lead-up + after-conduct (absconding) are relevant.
- **Alibi (S.9):** burden on the accused; prove with certainty.
- **Presumptions (S.2(1)):** may (discretion) → shall (mandatory, rebuttable) → conclusive (final).
- **Admissions (Ss 15-21):** by parties/interested persons; not conclusive (S.25); no self-serving proof (S.19).

- **Admission v. confession:** genus v. species; civil+criminal v. criminal guilt only.

## Master Case List for Unit 1

Case	Topic	One-line ratio
Hanumant v. State of M.P. (1952)	Circumstantial	Chain must exclude every hypothesis but guilt
Sharad Birdhichand Sarda v. State of Maharashtra (1984)	Circumstantial	The five golden principles (panchsheel)
Ratten v. Reginam (1972)	Res gestae	Contemporaneous call admitted
Gentela Vijayavardhan Rao v. State of A.P. (1996)	Res gestae	Post-event narration rejected
Dudh Nath Pandey v. State of U.P. (1981)	Alibi	Accused must prove alibi with certainty
Sodhi Transport Co. v. State of U.P. (1986)	Presumption	“Shall presume” is mandatory but rebuttable
Bharat Singh v. Bhagirathi (1966)	Admission	Substantive evidence, not conclusive

*End of Unit 1.*



# **Bharatiya Sakshya Adhinyam, 2023 (Law of Evidence)**

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*KSLU LL.B. — Model Answers: Essays, Short Notes & Problems (All  
Five Units)*

KSLU LL.B. Question Bank

**Medha-Academy**

[www.medha-academy.in](http://www.medha-academy.in)

Notes Version: **v1.0**

June 2026

**Read this first, then go to your unit.** This companion to the study notes gives you a full, exam-ready **model answer** to every essay, every recurring short / explanatory note, and every fact-pattern problem asked in past KSLU Law of Evidence papers — grouped by unit and topic in the same order as the notes. Everything is in BSA sections (with the old IEA section noted where it helps).

## How to Use This Question Bank

**What this is.** A rehearsal book. The study notes teach the concept; this bank shows you how to *write the marks* — a complete answer in the exact shape an examiner rewards, with the must-write phrases underlined.

**The 3-step drill.** (1) Read the question and try a 2-minute plan from memory. (2) Read the model answer; note the structure, the cases, and the verdict. (3) For problems, re-do the IRAC in your own words under time.

**Priorities.** The ★ rating shows how often a question repeats — ★★★ (5+ times) is a near-certainty; do these first. The Priority Index below lists them ranked.

**House rules that win marks.** Lead with a definition + roadmap; name the case **and** the year; quote the exact BSA section (note the old IEA section where helpful); for problems use the four IRAC headings (Issue, Rule, Application, Conclusion) and always give a definite verdict; spot the planted decoy fact.

## Exam Pattern & Mark Weights

**100-mark paper (older pattern):** answer Q.9 (two problems × 10 = 20 marks) and any five of Q.1–Q.8 (16 marks each); always attempt the problems first. **80-mark paper (current BSA pattern):** all five units compulsory — one essay (10M) and one short note / problem (6M) from each unit.

<b>Mark slot</b>	<b>What it is</b>	<b>Where it is drilled</b>
16M (100-mark) / 10M (80-mark)	Long essay	Section A of each unit
10M short / explanatory note	Recurring short note	Section B of each unit
Problems (10M / 6M)	Fact-pattern, IRAC	Section C of each unit

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# Priority Index – Questions by Frequency

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Rank	Question (short)	Type	Frequency	Unit
1	Res gestae / facts forming same transaction	Essay	★★★	1 (Q1.2)
2	Define admission; persons whose admissions relevant	Essay	★★★	1 (Q1.5)
3	Dying declaration — conditions & value	Essay	★★★	2 (Q2.4)
4	Who is an expert; when opinion relevant	Essay	★★★	2 (Q2.5)
5	Confession — relevancy, admissibility, police bar	Essay	★★★	2 (Q2.1)
6	Confession of co-accused	Essay/SN	★★★	2 (Q2.2/ S2.1)
7	Character evidence (civil & criminal)	Essay	★★★	3 (Q3.1)
8	Primary/secondary + electronic records	Essay	★★★	3 (Q3.2)
9	When secondary evidence admissible	Essay	★★★	3 (Q3.3)
10	Public documents & their proof	Essay/SN	★★★	3 (Q3.4/ S3.1)
11	Burden of proof	Essay	★★★	4 (Q4.1)
12	Estoppel — definition & kinds	Essay	★★★	4 (Q4.2)
13	Examination-in-chief / cross / re-examination	Essay	★★★	5 (Q5.1)
14	Privileged communications	Essay	★★★	5 (Q5.2)
15	Hostile witness	Short note	★★★	5 (S5.1)
16	Motive, preparation & conduct	Essay	★★★	1 (Q1.3)
17	What is evidence; kinds; civil v. criminal	Essay	★★★	1 (Q1.1)
18	May/shall presume; conclusive proof	Essay	★★	1 (Q1.4)
19	Leading questions	Essay/SN	★★	5 (Q5.4/ S5.2)
20	Scope of cross-examination; lawful questions	Essay	★★	5 (Q5.3)
21	Oral evidence must be direct	Essay	★★	3 (Q3.5)
22	Exclusion of oral by documentary	Essay	★★	3 (Q3.6)
23	Relevance of judgments	Essay	★★	2 (Q2.6)

Rank	Question (short)	Type	Frequency	Unit
24	Presumptions — rape & dowry death	Essay	★★	4 (Q4.4)
25	Admission v. confession	Essay	★★	1 (Q1.6)
26	Estoppel v. res judicata	Essay	★★	4 (Q4.3)
27	Extra-judicial confession	Essay	★★	2 (Q2.3)
28	Legitimacy of child (presumption)	Problem/ SN	★★★	4 (P4.1/ S4.1)
29	Discovery — info from accused in custody	Problem	★★★	2 (P2.2)
30	Loose character of prosecutrix	Problem	★★	3 (P3.1)

## Year Index — Questions by Paper

*A representative cross-reference of recurring questions to the blocks that answer them. Use it to rehearse a whole past paper under time.*

<b>Year (paper)</b>	<b>Essays (examples)</b>	<b>Short notes / Problems (examples)</b>
BSA 2026 (80)	Q1.1 evidence; Q2.6 judgments; Q3.3 secondary evidence; Q3.6 exclusion of oral	S1.* presumptions; P4.1 legitimacy; S3.2 admitted facts
BSA 2025 June (80)	Q1.1 oral v. documentary; Q1.4 may/shall presume; Q3.2 electronic records; Q5.2 privilege	P1.9 res gestae four persons; S3.1 public document
BSA 2025 Feb (80)	Q1.5 admission; Q1.2 res gestae; Q2.1 confession; Q2.4 dying declaration	S1.2 TIP; S1.3 alibi; S5.1 hostile witness
2022 (100)	Q1.1 evidence; Q1.2 res gestae; Q2.3 extra-judicial; Q2.5 expert; Q4.2 estoppel	S5.1 hostile witness; P3.1 loose character
2021 (100)	Q1.5 admission; Q2.4 dying declaration; Q4.1 burden; Q4.3 estoppel v. res judicata	P4.1 legitimacy; P5.2 cross-examination limits
2020 (100)	Q1.2 res gestae; Q2.5 expert; Q4.1 burden; Q5.1 examination	S4.1 legitimacy; S4.2 estoppel; P5.1 own witness
2019 (100)	Q1.1 evidence; Q1.3 motive/preparation; Q3.4 public documents; Q5.4 leading questions	P1.4 robbery money; P2.1 co-accused confession
2017 (100)	Q2.1 confession; Q2.5 expert; Q3.4 public documents; Q4.2 estoppel	P1.7 absconding; P4.1 legitimacy; P4.4 tenancy estoppel
2016 (100)	Q1.4 presumptions; Q2.2 co-accused; Q3.1 character; Q5.3 cross-examination	P2.2 discovery; P3.1 loose character
2014 (100)	Q1.4 may/shall presume; Q2.5 expert;	P1.1 poison; P3.3 oral v. documentary

Year (paper)	Essays (examples)	Short notes / Problems (examples)
	Q3.3 secondary; Q3.4 public documents	

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# UNIT 1 – Introduction, Relevancy of Facts & Admissions · Question Bank

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**Scope of this unit's bank:** full model answers to every **essay** (§A), every recurring **short / explanatory note** (§B), and every **fact-pattern problem** (§C) asked in past KSLU papers for this unit.

## A. Essay Questions – Model Answers

**Q1.1 – [16M] What is evidence? State the different kinds of evidence. Are the rules of evidence the same in civil and criminal cases?**

Asked: 2012(100), 2014(100), 2018(100), 2019(100), 2021(100), 2022(100); BSA 2025(80); 2015(100), 2017(100) · ★★ ★ · Notes: Unit 1 → Meaning & Kinds of Evidence

**Introduction.** Evidence is the material by which a fact is proved or disproved before a court; it is the raw material of judicial decision. Under **Section 2(1)(e), BSA** “evidence” means and includes **oral evidence** (statements witnesses are permitted or required to make) and **documentary evidence** (all documents, including **electronic and digital records**, produced for inspection).

### Kinds of evidence

1. Oral v. documentary — what witnesses depose to, as against what documents demonstrate.
2. Primary v. secondary — the **original** document itself, as against copies or substitutes admissible only when the original cannot be produced.
3. Direct v. circumstantial — evidence of the fact in issue itself, as against facts from which the fact in issue is **inferred**; circumstantial evidence must form a complete chain pointing only to guilt.
4. Real (material) evidence — the physical object produced, or the court’s own inspection of a thing or place.

5. Hearsay (generally excluded) — second-hand assertions, admissible only within recognised exceptions such as *res gestae*, admissions and dying declarations.

**Relevancy v. admissibility.** Relevancy is a question of logic (is the fact connected?), admissibility a question of law (does the Act let it in?); all admissible evidence is relevant, but not all relevant evidence is admissible.

**Civil and criminal cases.** The rules of evidence are in general the same in civil and criminal cases — the same Act governs both. The chief difference is the **standard of proof**: a civil case is decided on the **preponderance of probabilities**, whereas a criminal case requires proof **beyond reasonable doubt**, and the burden rests throughout on the prosecution because of the presumption of innocence.

### Leading cases

- ***Hanumant v. State of M.P. (1952)*** — circumstantial evidence must form a chain so complete as to exclude every hypothesis but guilt.
- ***Sharad Birdhichand Sarda v. State of Maharashtra (1984)*** — laid down the five golden principles for conviction on circumstantial evidence.

**Conclusion.** Evidence under S.2(1)(e) is the oral and documentary material on which a court acts; it is classified as oral/documentary, primary/secondary, direct/circumstantial and real, and is admitted only when both relevant and legally admissible. The same body of rules governs civil and criminal trials, the real distinction lying in the standard of proof the two demand. A clear grasp of these classifications, and of the relevancy–admissibility divide, is the foundation on which the whole law of evidence is built.

It should be added that evidence in the legal sense is confined to what is produced *before the court* in the course of the proceeding; matters within the personal knowledge of the judge, or material gathered outside the trial, are not evidence. The classification also shapes how a fact is proved — documents ordinarily by the document itself, facts by the testimony of those who perceived them — so that the kind of evidence and the mode of its proof are closely linked. A student who can name the kinds of evidence and place a given piece of material in its correct class has already taken the first step towards a well-organised answer.

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## Q1.2 — [16M] Explain the relevancy of facts forming part of the same transaction. Discuss the doctrine of *Res gestae*.

Asked: 2012(100), 2013(100), 2015(100), 2016(100), 2019(100), 2020(100), 2022(100), 2024(80); BSA 2026 · ★★★ · Notes: Unit 1 → *Res gestae*

**Introduction.** Section 4 of the BSA (← IEA S.6) makes relevant facts which, though not in issue, are so connected with a fact in issue as to form part of the **same transaction** — the doctrine known as *res gestae* [things done]. It is an exception to the rule against hearsay, admitting spontaneous words and acts that are part of the event itself.

## The rule (S.4)

1. Same transaction — facts so connected with the fact in issue as to form part of the same transaction are relevant, **whether they occurred at the same time and place or at different times and places.**
2. What is a “transaction” — a group of facts so connected together as to be referred to by a single name (a crime, a contract, a wrong) — a continuous whole of which the fact in issue is a part.

## The test — contemporaneity and spontaneity

1. Spontaneity — the statement or act must be **spontaneous and contemporaneous** with the event, made under the stress of excitement before the mind has time to fabricate.
2. Part of the event — it must be substantially **contemporaneous** with the fact in issue, not a mere narrative of a past, completed event.

**Illustrations & scope.** A cry for help during an assault, a remark made while the act is being done, or a victim’s exclamation naming the assailant during the attack are res gestae. But a considered statement made *after* the transaction has ended, with time to reflect or concoct, falls outside S.4.

## Leading cases

- ***Ratten v. Reginam (1972)*** — a telephone call by the victim during the shooting, made in fear, was admitted as part of the res gestae.
- ***Gentela Vijayavardhan Rao v. State of A.P. (1996)*** — a statement recorded after an appreciable interval, allowing time to concoct, is **not** res gestae.
- ***Sukhar v. State of U.P. (1999)*** — applied S.6 (now S.4) to admit a spontaneous statement closely connected in time with the incident.

**Conclusion.** Under S.4 facts forming part of the same transaction are relevant, the governing test being contemporaneity and spontaneity; a statement made as part of the event is res gestae, while a later narrative is not. The doctrine lets the court hear the natural, unreflected words and acts that surround a fact in issue, treating the event as the connected whole it really is, while the spontaneity requirement guards against fabricated afterthoughts entering through this door.

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## Q1.3 — [16M] Discuss the relevancy of facts showing motive, preparation and conduct.

Asked: 2014(100), 2016(100), 2017(100), 2018(100), 2021(80), 2024(80) · ★★★★★ ·  
Notes: Unit 1 → Motive, Preparation & Conduct

**Introduction.** Section 6 of the BSA (← IEA S.8) makes relevant any fact which shows or constitutes a **motive** or **preparation** for any fact in issue or relevant fact, and the

**conduct** of any party or accused, whether previous or subsequent. These connected facts often supply the circumstantial chain in a criminal case.

### **Motive**

1. Meaning — motive is the **emotion or reason** that impels a person to do an act; it is relevant because it makes the doing of the act more probable.
2. Weight — motive is **not essential** where there is direct evidence, but in a case resting on circumstances, **proof of an adequate motive strengthens** the prosecution, and its **total absence** may weigh in the accused's favour.

### **Preparation**

1. Meaning — preparation consists of **arranging the means or measures** necessary for the commission of the act (e.g. **procuring poison or a weapon**, arranging an alibi).
2. Relevance — preparation is relevant because it shows the design and capacity to commit the act.

### **Conduct**

1. Previous & subsequent conduct — the conduct of a party or accused, **previous or subsequent** to the fact, is relevant if it **influences or is influenced by** the fact in issue (e.g. **absconding** after the crime, attempts to fabricate evidence, or a guilty demeanour).
2. Limits — conduct must be in **reference to** the facts in issue; a mere statement is not "conduct" unless it accompanies and explains an act.

### **Leading cases**

- ***Anant Chintaman Lagu v. State of Bombay (1960)*** — motive and a chain of conduct can sustain a conviction on circumstantial evidence.
- ***Wakid Khan / State of Maharashtra v. Suresh (2000)*** — subsequent conduct such as discovery at the instance of the accused and absconding is relevant corroborative conduct.

**Conclusion.** Section 6 makes motive, preparation and the previous or subsequent conduct of a party relevant, because each forms part of the circumstantial story of how and why a fact in issue came about. Motive supplies the "why", preparation the "means", and conduct the tell-tale behaviour before and after the act; together they frequently complete the chain of circumstances, though none is by itself conclusive and the court weighs them with the rest of the evidence.

It is important to remember that these three heads frequently operate together in a single case: the motive supplies the reason, the preparation shows the means were arranged, and the conduct before and after betrays the design. None of them is, standing alone, conclusive proof of the offence; they are pieces of the circumstantial mosaic which the court must read as a whole. Where the case rests wholly on circumstances, the cumulative force of an adequate motive, clear preparation and tell-tale conduct can complete the chain, while their absence may create a reasonable doubt in the accused's favour.

## Q1.4 — [16M] Explain “may presume”, “shall presume” and “conclusive proof” with illustrations.

Asked: 2014(100), 2016(100); BSA 2025(80), 2026(80); 2025-June(80) · ★★ ·

Notes: Unit 1 → Presumptions

**Introduction.** The BSA recognises three degrees of presumption — “may presume”, “shall presume” and “conclusive proof” — which fix how far a court is bound to act on a fact before it is proved by evidence. They are defined in **Section 2(1) (← IEA S.4)** and ascend in strength.

### May presume (discretionary, rebuttable)

1. **Meaning** — the court **may** regard a fact as proved unless and until it is disproved, **or may call for proof** of it.
2. **Discretion** — it is left to the court’s **judicial discretion** whether to presume at all. (*Illustration: a man in possession of stolen goods soon after a theft may be presumed to be the thief or a guilty receiver.*)

### Shall presume (mandatory, rebuttable)

1. **Meaning** — the court **shall** regard the fact as proved **unless and until it is disproved**.
2. **No discretion, but rebuttable** — the court has **no choice** but to presume; it cannot call for proof of the fact, but the **opposite party may rebut** it by evidence. (*Illustration: the court shall presume the genuineness of a certified copy or of a duly executed and attested document.*)

### Conclusive proof (irrebuttable)

1. **Meaning** — on proof of one fact, the court **shall regard another as proved**, and **shall not allow evidence to be given to disprove it**.
2. **Finality** — this is the strongest presumption; **no rebuttal** is permitted. (*Illustration: a child born during a valid marriage is conclusive proof of legitimacy, subject only to proof of non-access — S.116.*)

### Leading cases

- ***Sodhi Transport Co. v. State of U.P. (1986)*** — explained “shall presume” as a mandatory but rebuttable presumption.
- ***Izhar Ahmad Khan v. Union of India (1962)*** — discussed the nature and effect of conclusive proof and rebuttable presumptions.

**Conclusion.** The three expressions form an ascending scale: “may presume” leaves it to the court’s discretion to presume or to call for proof; “shall presume” compels the court to presume unless the fact is disproved; and “conclusive proof” forecloses the question altogether by shutting out contrary evidence. Understanding which expression a provision

uses tells a student at once whether the presumption is optional, mandatory-but-rebuttable, or final, and therefore how the burden of producing evidence will move in the case.

The practical importance of these expressions lies in the way they allocate the burden of producing evidence. A 'may presume' fact leaves the party free to rely on the presumption or to lead positive proof; a 'shall presume' fact relieves the party of proving it but invites the opponent to disprove it; and a 'conclusive proof' fact ends the enquiry altogether. Reading a provision carefully to see which of the three expressions it uses therefore tells the advocate at once how much, if anything, he must prove and how far the other side may answer.

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## Q1.5 — [16M] Define admission. State the persons whose admissions are relevant. What is their evidentiary value?

Asked: 2012(100), 2013(100), 2015(100), 2017(100), 2019(100), 2021(100); BSA 2025(80), 2026(80); 2014(100) · ★★★ · Notes: Unit 1 → Admissions

**Introduction.** An admission (Section 15, BSA ← IEA S.17) is a statement, oral or documentary or in electronic form, which suggests an inference as to a fact in issue or a relevant fact, made by one of the persons and in the circumstances the Act specifies. It is the genus of which a confession is a species.

### Persons whose admissions are relevant (Ss 16-18)

1. Parties, agents, interested persons & predecessors (S.16) — statements by **parties** to the proceeding, by their **authorised agents**, by persons having a **proprietary or pecuniary interest** in the subject-matter (during the continuance of that interest), and by persons from whom the parties **derive their interest** (predecessors-in-title).
2. Persons whose position must be proved (S.17) — persons whose **liability or position** it is necessary to prove as against a party to the suit.
3. Persons expressly referred to (S.18) — a person to whom a party **expressly refers** for information (e.g. "go and ask C"); his statement binds the party who referred to him.

### Evidentiary value

1. Substantive but not conclusive (S.25 ← IEA S.31) — admissions are **substantive evidence** that may be proved against the maker, but they are **not conclusive**; the maker may **explain or show them to be wrong**.
2. May operate as estoppel — where the other party has acted on the admission, it may bind the maker by **estoppel**.
3. Self-serving bar (S.19) — admissions are relevant and may be proved **against** the person who makes them, but a person **cannot prove his own admission in his own favour**, except in the limited cases the Act allows (S.19).

## Leading cases

- ***Bharat Singh v. Bhagirathi (1966)*** — admissions are substantive evidence, relevant and provable against the maker, though not conclusive.
- ***CIT v. S. Khader Khan Son (2012)*** — an admission is not conclusive and can be shown to have been made under a mistake or to be untrue.

**Conclusion.** An admission under S.15 is a statement suggesting an inference about a fact in issue or relevant fact; the admissions of parties, their agents, interested persons, predecessors-in-title and persons expressly referred to are relevant, and while they are weighty substantive evidence they are not conclusive (S.25) and cannot be proved by the maker in his own favour (S.19). The law thus gives admissions real probative force while leaving the maker free to explain them, and prevents a party from manufacturing evidence for himself.

A further point of importance is that an admission, to be used, must be taken as a whole — a party cannot accept the part of a statement that helps him and reject the part that hurts him; the court reads the inculpatory and exculpatory portions together. Admissions are also distinguished from mere casual or hypothetical statements, for they must suggest an inference as to a fact in issue or relevant fact. Properly understood, the law of admissions strikes a balance: it gives a party's own considered words real weight against him, while allowing him a fair opportunity to explain the circumstances in which they were made.

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## Q1.6 — [16M] Distinguish between admission and confession.

Asked: 2012(100), 2014(100), 2020(100) · ★★ · Notes: Unit 1 → Admission v. Confession

**Introduction.** Both an admission and a confession are statements against the interest of the maker, but a confession is a narrower, graver thing — an admission of guilt by a person accused of an offence. The confession is the **species**; the admission is the **genus**.

### Admission (Ss 15-21)

1. Meaning — a statement suggesting an inference as to a fact in issue or relevant fact.
2. Scope — available in **both civil and criminal** proceedings.
3. Not necessarily of guilt — it concedes a **fact** adverse to the maker, not necessarily the whole offence.

### Confession (Ss 22-24)

1. Meaning — an admission made by a person **accused of an offence**, stating or suggesting that he committed that offence.
2. Scope — only in **criminal** proceedings.
3. Admission of guilt — it admits, in terms or substantially, all the facts constituting the offence (*Pakala Narayana Swami*).

## Points of distinction

1. Genus and species — every confession is an admission, but **not every admission is a confession**.
2. Conclusiveness — a **voluntary** confession may by itself sustain a conviction; an admission is **never conclusive** and only shifts the burden.
3. Who makes it — a confession is by the **accused**; an admission may be by a party or by various connected persons (agents, predecessors, referees).
4. Use against others — a confession of a co-accused may be **taken into consideration** against others in a joint trial (S.24); an admission generally binds **only its maker**.

## Leading cases

- ***Pakala Narayana Swami v. Emperor (1939)*** — a confession must either admit the offence or substantially all the facts that constitute it.
- ***Palvinder Kaur v. State of Punjab (1952)*** — a statement that is partly inculpatory and partly exculpatory is not a confession.

**Conclusion.** An admission is the genus — a statement against interest in any proceeding, never conclusive — while a confession is the species — an accused's admission of guilt in a criminal case, which if voluntary may alone convict. The distinction matters because the law surrounds confessions with special safeguards (voluntariness, the bar on police confessions) that do not apply to ordinary admissions, and because only a confession carries the potential to be, by itself, the foundation of a conviction.

The distinction is of great practical consequence at the trial. Because a confession may by itself found a conviction, the law insists that it be strictly voluntary and free from the taint of police pressure, and it excludes confessions made to the police or in custody; an ordinary admission attracts no such protective machinery. The student should therefore identify, on any given statement, first whether the maker is an accused admitting his own guilt (a confession) or merely a party conceding a fact (an admission), and then apply the safeguards that attach only to the former.

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## B. Short Notes — Model Answers

### S1.1 — [10M] **Distinction between relevancy and admissibility.**

*Asked: 2019(100), 2021(100), 2022(80) · ★★ · Notes: Unit 1 → Relevancy v. Admissibility*

**Introduction.** Relevancy and admissibility are two distinct gateways every fact must pass before a court will act on it — the first a question of logic, the second a question of law.

## Relevancy

1. Logical connection — a fact is **relevant** when it is so connected with another that, according to the ordinary course of events, it makes the existence or non-existence of that other fact **probable**.
2. Governed by Ss 3-50 — the “relevancy” chapters declare which facts are connected enough to be received.

## Admissibility

1. Legal permissibility — a fact is **admissible** when the **law positively allows** it to be proved; admissibility is founded on **rules of law**, not logic.
2. Governed by the rules of proof — e.g. how documents are proved, the bar on police confessions, privilege.

## The relationship

1. All admissible facts are relevant, but not all relevant facts are admissible — a confession to the police is **logically relevant** but **legally inadmissible**.
2. Relevancy is the wider concept; admissibility is the **strict legal filter** applied after relevancy.

**Leading case. Ram Bihari Yadav v. State of Bihar (1998)** — distinguished relevancy from admissibility and from probative value.

**Conclusion.** Relevancy asks whether a fact is logically connected; admissibility asks whether the law permits it to be proved; a fact must satisfy both, and a relevant fact may still be shut out by a rule of admissibility.

The practical upshot is that an objection at the trial may be put in two distinct ways — that a fact is not relevant at all, or that, though relevant, it is not admissible in the form or manner offered. A court therefore first asks whether the fact is connected under the relevancy chapters, and only then whether a rule of law permits it to be proved.

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## S1.2 — [10M] Test Identification Parade.

Asked: 2022(80), 2025-Feb(80) · ★ · Notes: Unit 1 → Explanatory Facts (S.7)

**Introduction.** A Test Identification Parade (TIP) is a pre-trial procedure in which a witness picks out the accused (or a stolen article) from among similar persons or things, to test whether the witness can reliably identify him. It is relevant as a fact that explains or supports the identification made in court (S.7 ← IEA S.9).

### Purpose and nature

1. Corroborative, not substantive — the substantive evidence is the **identification in court**; the TIP only **corroborates** it and assures the court that the witness’s memory is reliable.

2. Held soon after arrest — a TIP should be held **promptly** and before the witness has had a chance to see the accused, to be of value.

### Safeguards

1. Conducted by a Magistrate — ideally before a Judicial Magistrate, with the accused mixed among persons of **similar appearance**.
2. Fairness — the accused must not have been **shown** to the witness beforehand; failure renders the TIP worthless.

**Evidentiary value.** A TIP is **not substantive evidence** and its absence is not fatal where the court-identification is reliable, but a properly held TIP lends valuable assurance, especially where the witness was a stranger to the accused.

**Leading case.** *Dana Yadav v. State of Bihar (2002)* — the purpose and evidentiary value of a TIP as corroboration explained.

**Conclusion.** A Test Identification Parade is a corroborative pre-trial check on the reliability of a witness's identification; relevant under S.7, it strengthens the in-court identification but is not itself substantive evidence.

In practice the prosecution leads the TIP to forestall the defence suggestion that the witness identified the accused only because he was in the dock; a TIP held fairly and promptly rebuts that suggestion. Conversely, an identification made for the first time in court, of a stranger, without any prior TIP, is treated with caution.

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## S1.3 — [10M] Plea of alibi.

Asked: 2025-Feb(80) · ★ · Notes: Unit 1 → Alibi (S.9)

**Introduction.** *Alibi* [elsewhere] is the plea that the accused was so far away from the scene at the relevant time that he could not have committed the offence. It is admitted under **Section 9, BSA (← IEA S.11)**, which makes relevant facts inconsistent with, or rendering highly improbable, a fact in issue.

### Nature of the plea

1. A fact inconsistent with guilt — if the accused was elsewhere, his presence at the scene (a fact in issue) is rendered impossible; the alibi is therefore relevant under S.9.
2. Not an exception, but a denial — the plea does not admit the offence; it asserts the physical impossibility of the accused having committed it.

### Burden and standard

1. Burden on the accused — the accused who pleads alibi **must prove it**, since the fact is especially within his knowledge (S.109).
2. Strict proof — the alibi must be established with **certainty** so as to **completely exclude** the possibility of the accused's presence; a merely plausible alibi will not do.

**Effect.** A proved alibi destroys the prosecution case; a failed alibi does not, by itself, prove guilt, but a **false** alibi may be treated as an additional incriminating circumstance.

**Leading case.** *Dudh Nath Pandey v. State of U.P. (1981)* — the plea of alibi must be proved by the accused with certainty; the burden is on him.

**Conclusion.** The plea of alibi, relevant under S.9, asserts that the accused was elsewhere and so could not have committed the offence; the burden of proving it lies on the accused and must be discharged with certainty, failing which the prosecution case stands unaffected.

It follows that the failure of an alibi does not relieve the prosecution of its own burden of proving guilt beyond reasonable doubt; the accused does not become guilty merely because his alibi is disbelieved. But a deliberately false alibi, set up to mislead the court, may itself be used as a circumstance pointing towards guilt, so the plea must be raised honestly and proved cogently.

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## C. Problems — Model Answers (IRAC)

**P1.1 — [Prob] A is tried for the murder of B by poison; before B's death A procured poison similar to that administered to B. Is the fact relevant?**

*Asked: 2012(100), 2022(80) · ★★ · Notes: Unit 1 → Preparation (S.6)*

**Issue.** Is A's prior procurement of poison, before the death, a relevant fact?

**Rule.** Section 6 (← IEA S.8) — facts showing **preparation** for a fact in issue are relevant. Procuring the means of committing the offence is classic preparation.

**Application.** A's act of obtaining **poison similar to that administered to B**, shortly before B's death, shows that he made ready the very means by which the murder was committed. The decoy is that the act occurred **before** the death and is not the killing itself; but preparation need not be the offence — it is relevant precisely because it precedes and enables it. The similarity of the poison links the preparation to the actual cause of death.

**Conclusion.** The fact that A procured similar poison before B's death is relevant as evidence of preparation under S.6.

The relevance of preparation does not depend on the act being criminal in itself — buying poison may be perfectly lawful — but on its connection with the offence later committed. Here the similarity between the poison procured and the poison administered supplies that connection and makes the prior purchase a strong incriminating circumstance.

## P1.2 — [Prob] A sells a horse to B and says “go and ask C, C knows all about it”; on B’s asking, C says the horse is not sound. Is C’s statement admissible?

Asked: 2012(100) · ★ · Notes: Unit 1 → Admissions (S.18)

**Issue.** Is the statement of a third person, C, to whom a party expressly referred, admissible against that party?

**Rule.** Section 18 (← IEA S.20) — statements made by persons to whom a **party has expressly referred** for information are admissions and are relevant against that party.

**Application.** A expressly told B to “ask C”, holding C out as the source of truth about the horse. By that reference A **adopted** C’s answer as his own; C’s statement that the horse is unsound therefore binds A as an admission. The decoy is that C is a stranger whose words would normally be hearsay; but the express reference under S.18 takes the statement out of the hearsay bar.

**Conclusion.** C’s statement is admissible against A as an admission by a person expressly referred to under S.18.

The principle is that a party who points to another as the source of truth makes that other his mouthpiece for the purpose; he cannot afterwards disown the answer merely because it is unfavourable. A’s reference to C was express and unqualified, so C’s reply binds A as fully as if A had spoken it himself.

## P1.3 — [Prob] The question is whether A committed a crime at Calcutta on a certain day; the fact is that on that day A was at Lahore (variant: A pleads he was at a reality show in Bengaluru). Is the fact relevant?

Asked: 2013(100); variant 2023(80) · ★★ · Notes: Unit 1 → Alibi (S.9)

**Issue.** Is the accused’s presence elsewhere at the material time a relevant fact?

**Rule.** Section 9 (← IEA S.11) — facts **inconsistent** with a fact in issue, or which make its existence **highly improbable**, are relevant; this is the basis of the **plea of alibi**, and the burden of proving it is on the accused (S.109).

**Application.** If A was at **Lahore** (or at the Bengaluru show) on the day of the crime at Calcutta, his presence at the scene is **physically impossible**; the fact is inconsistent with the fact in issue and is relevant under S.9. The decoy is the far-away or unrelated location; but distance is precisely what makes the alibi relevant. A must, however, **prove the alibi with certainty**, the fact being within his knowledge.

**Conclusion.** The fact that A was elsewhere is relevant under S.9 as a plea of alibi, provided A proves it with certainty.

The court will weigh the alibi against the prosecution evidence of presence; if the alibi is established with certainty it displaces the prosecution case, but if it is left merely possible it fails. A's distance from the scene, if proved, makes his participation physically impossible and is therefore directly inconsistent with the fact in issue.

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### **P1.4 — [Prob] The question is whether A robbed B; shortly before the robbery B went to a shop with money in his possession and showed it to third persons. Is this relevant?**

Asked: 2013(100), 2019(100) · ★★ · Notes: Unit 1 → Occasion/Cause (S.5)

**Issue.** Is the victim's prior conduct of carrying and displaying money a relevant fact?

**Rule.** Section 5 (← IEA S.7) — facts which are the **occasion, cause or effect** (immediate or otherwise) of a fact in issue, or which constitute the **state of things** under which it happened, are relevant.

**Application.** B's act of carrying money and **showing it to others shortly before the robbery** establishes the **occasion and state of things** that gave rise to the robbery — it explains how B came to be a target and that he in fact had money to be robbed. The decoy is that this is the **victim's** conduct, not the accused's; but S.5 makes relevant facts forming the state of things, whoever's conduct they are.

**Conclusion.** The fact is relevant under S.5 as the occasion and state of things in which the robbery occurred.

Such facts are admitted not to prove the robbery directly but to set the stage — to show that B had money worth robbing and that the occasion for the offence existed. They form part of the surrounding circumstances which, together with the other evidence, make the alleged robbery probable.

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### **P1.5 — [Prob] A is charged with shooting at B with intent to kill; the prosecution proves A had previously shot at B (variant: marks on the ground from a prior fight between A and B). Is it relevant?**

Asked: 2012(100), 2021(80) · ★★ · Notes: Unit 1 → Motive/Preparation (S.6)

**Issue.** Is a prior, separate act of hostility by the accused towards the victim relevant?

**Rule.** Section 6 (← IEA S.8) — facts showing **motive, preparation or conduct** are relevant. A prior attack or quarrel evidences ill-will (motive) and a continuing design.

**Application.** A's **earlier shooting at B**, or the **marks of a prior fight**, show A's **hostility and motive** towards B and a continuing intention to harm him, which makes the charged shooting more probable. The decoy is that the earlier act is a **separate** incident; but it is admitted not as the offence charged but as evidence of motive and conduct under S.6.

**Conclusion.** The prior shooting / fight is relevant under S.6 as evidence of motive and previous conduct, though not as proof of the present offence by itself.

The court must, however, guard against treating the earlier hostility as proof of the present act; it is admitted only to show motive and the continuance of ill-will. Read with the other circumstances, the prior shooting or fight strengthens the inference that the charged shooting was deliberate and aimed at B.

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## **P1.6 — [Prob] A is accused of receiving stolen goods knowing them to be stolen; he wishes to prove that he refused to sell them below market value. Can he?**

*Asked: 2012(100), 2024(80) · ★ · Notes: Unit 1 → Conduct (S.6)*

**Issue.** Is the accused's own subsequent conduct of refusing to undersell the goods relevant in his favour?

**Rule.** Section 6 (← IEA S.8) — the **conduct** of an accused, previous or subsequent, which is influenced by a fact in issue, is relevant; conduct may be relevant **for** as well as against the accused.

**Application.** A's **refusal to sell the goods below market value** is conduct inconsistent with the guilty knowledge of a receiver (a thief or guilty receiver typically disposes of stolen goods quickly and cheaply). It tends to show he dealt with them openly, as his own. The decoy is that this is **self-serving** conduct; but conduct influenced by the fact in issue is relevant under S.6 whichever way it cuts.

**Conclusion.** Yes — A may prove his refusal to sell below market value as relevant conduct under S.6 bearing on the absence of guilty knowledge.

Conduct that is genuinely inconsistent with a guilty mind is as relevant as conduct that betrays one, and the section does not confine relevance to facts that incriminate. A's open dealing with the goods, if believed, tends to negate the knowledge that they were stolen, which is an essential ingredient of the offence charged.

## P1.7 — [Prob] A is accused of a crime; the prosecution shows he absconded immediately after the incident. Can A prove that he had an urgent work elsewhere at that time?

Asked: 2014(100), 2017(100), 2018(100), 2024(80) · ★★ · Notes: Unit 1 → Conduct (S.6)

**Issue.** Is the explanation for the accused's absconding admissible to rebut the inference of guilt?

**Rule.** Section 6 (← IEA S.8) — subsequent conduct such as **absconding** is relevant as conduct; equally, the accused may lead facts that **explain** that conduct innocently, since explanatory facts are relevant (S.7).

**Application.** Absconding is **equivocal** — it may show consciousness of guilt, but it may also have an innocent explanation. A is therefore entitled to prove that he left because of **urgent work elsewhere**, which rebuts the guilty inference the prosecution draws. The decoy is the assumption that **absconding = guilt**; the law treats it only as a relevant circumstance, open to explanation.

**Conclusion.** A may prove the innocent explanation for his absence; absconding is only a relevant circumstance under S.6 and is not, by itself, proof of guilt.

The weight to be given to absconding depends on the explanation offered; a satisfactory innocent reason neutralises it, whereas an absconding left unexplained may strengthen the prosecution. A is therefore entitled to lead the explanatory facts, and the court will decide whether they displace the guilty inference the prosecution seeks to draw.

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## P1.8 — [Prob] A hears that C has been murdered, reaches the spot, and four persons carrying C's body tell him "B murdered C and ran away." Does their statement form part of res gestae? (Variant: X, hit by a vehicle, later explains the accident to Y.)

Asked: 2025-June(80); variant 2022(80), 2025(80) · ★★ · Notes: Unit 1 → Res gestae (S.4)

**Issue.** Is a statement made after the event, to a person who arrives later, part of the res gestae?

**Rule.** Section 4 (← IEA S.6) — only facts/statements **contemporaneous** with the transaction, made spontaneously and without opportunity to fabricate, form part of the res gestae (*Gentela*).

**Application.** The four persons spoke **after** the murder, on A's arrival, while carrying the body away — there was time and opportunity to reflect and concoct, so the **spontaneity**

essential to res gestae is lost; their statement is a **narrative of a completed event**, not part of it. (In the variant, X's explanation to Y *after* the accident is similarly a later narration, not contemporaneous with the impact.)

**Conclusion.** The statement of the four persons does not form part of the res gestae under S.4, the necessary contemporaneity and spontaneity being absent.

The rationale is that the spontaneity of res gestae is its guarantee of truth; once the speaker has had time to think, that guarantee is gone and the statement becomes ordinary hearsay. The four persons' account, given after the event to a newcomer, must therefore be proved, if at all, by calling them as witnesses, not as part of the transaction.

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## **P1.9 — [Prob] A sues B to recover a loan; B denies it; A wishes to prove his own earlier statement to C that he had lent the money to B. Can he?**

Asked: 2022(80) · ★ · Notes: Unit 1 → Admissions (S.19)

**Issue.** May a party prove his own prior statement in his own favour?

**Rule.** Section 19 (← IEA S.21) — a person **cannot prove his own admission/statement in his own favour**, save in the limited exceptions (e.g. a statement admissible as part of res gestae, a statement of bodily/mental state, or a dying declaration).

**Application.** A's statement to C that he lent the money to B is a **self-serving** prior statement; allowing him to prove it would let a party manufacture evidence for himself. None of the S.19 exceptions applies — it is neither res gestae nor a statement of contemporaneous state. The decoy is that the statement supports A's case; but that is exactly why the rule bars it.

**Conclusion.** A cannot prove his own self-serving statement to C; he must establish the loan by other admissible evidence (S.19).

The bar exists to prevent a litigant from improving his own case by his own prior assertions; otherwise every party could create favourable evidence at will. A may, of course, testify on oath to the loan and call C or other witnesses, but he cannot put in his earlier out-of-court statement to C as proof of the very fact in dispute.

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*End of Unit 1 Question Bank.*

