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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CONFESSION MUST NOT BE PROMPTED BY INDUCEMENT, THREAT OR PROMISE

AUTHORED BY - YUVRAJ SINGH

Abstract

Confessions play a pivotal role in legal proceedings, representing an acknowledgment of truth and accountability by the accused, significantly influencing case outcomes. Courts carefully evaluate confessions in their various forms – such as judicial, retracted, or extrajudicial – to avoid introducing potentially misleading evidence.

The growing integration of neuroscience in legal contexts over the past twenty years has sparked concerns among the media, legal experts, and scientists regarding its potential influence on individuals involved in making legal judgments. There's worry about how evidence linked to the brain, like defendant statements and images, could unfairly sway those responsible for legal decisions. This analysis aims to provide context to the current use of neuroscience in courtrooms.

Moreover, this study examines protections against self-incrimination related to neuroscientific evidence and other elements outlined Section 29 of the Evidence Act. It presents a critical evaluation of this evidence and seeks to understand appropriate methods for verifying its relevance.

Keywords:- Confession, Neuroscience, evidence, legal validity, self-incrimination.

Introduction

A "confession" is outlined by the Indian Evidence Act as a confession made by the accused, charged with a crime that implies their involvement in that crime. However, the Act doesn't specifically define this term. Nonetheless, the Act's idea of inference in the Section 17's definition of "Admission" is relevant to understanding confessions. Confessions, when made by individuals accused of crimes, suggest their link to a crucial aspect of the case, potentially indicating their responsibility.

Furthermore, in the Indian Evidence Act, it makes the distinction between "admission" and "confession." While Admission involves the accused acknowledging their guilt, Confessions hold more weight and significance. It's vital for the court to thoroughly assess all evidence related to the case before giving significant importance to the accused's confession. This ensures a comprehensive review of case details, aiming for a fair determination of guilt.

Confessions can either support or challenge the claims made by the individual confessing, albeit with exceptions outlined in The Indian Evidence Act, Section 21. When multiple individuals jointly confess to a specific crime, these confessions can be used against other accused individuals, as per Section 30 of the Indian Evidence Act.

Confessions' behaviors. varies depending on the case's circumstances. Judicial Confessions, occurring within a legal framework like a courtroom, and extrajudicial Confessions, happening outside the legal realm, serve distinct purposes in establishing an accused person's culpability.

Judicial confessions occur during legal proceedings, either in front of a magistrate or within a criminal court session. Conversely, extrajudicial confessions take place outside the formal courtroom setting. It's essential for the court to confirm that the accused individual's confession is both voluntary and genuine to prevent baseless allegations. This safeguard is guaranteed by the Indian Constitution's Article 20(3).

Extrajudicial confessions, also termed out-of-court confessions, occur in various non-legal settings like private spaces, during prayers, or in moments of personal reflection. Both judicial and extrajudicial confessions might be considered during legal proceedings, but they hold different levels of evidentiary weight in establishing facts. Nevertheless, a conviction cannot solely rely on a confession; the court must carefully examine extrajudicial confessions to determine an individual's culpability in committing an offense.

Comprehensive Definition and Legal Interpretation of Confession

The terms in the Indian Evidence Act Section 24 views "confession" as a type of 'Admission,' indicating it's a separate category within admissions. As per Justice Stephen's interpretation in the is when an accused person either clearly admits to the crime they're charged with or indirectly suggests their involvement in it.

Put simply:

1. A confession happens when the accused openly acknowledges committing the specific crime they're accused of.
2. Even if the accused doesn't outright confess, if their statement implies or hints at their potential role in the crime, it might be seen as a confession.

To sum up, a confession, according to this definition, could be a direct admission of guilt or a statement indirectly suggesting their connection to the crime, giving reasonable cause to suspect their involvement.

The Indian Evidence Act establishes a clear distinction between confession and admission. Admission is the accused recognition to guilt, while Confession entails a more comprehensive and enduring acknowledgment. To ensure equitable justice in matters of guilt, the court should initially assess all evidence pertaining to the case before prioritizing the accused's Confession.

In legal proceedings, the significance of Admission is substantial. If one party demonstrates that the other has acknowledged essential facts the central issue, it aids the court in fairly delivering justice the Indian Evidence Act's specifically section 17 to 23 among the address aspects related to Admission.

Confessions can support or dispute individuals' statements, with specific exemptions mentioned in Section 21 of the Indian Evidence or Act. Additionally, if multiple individuals confess together to the same crime, those. Confessions may be used, in accordance with Article 30 on the Indian Evidence Act, as convincing proof towards even more accusers associated to the offense.¹

According to the provisions of chapter 24 of the statute, if the confession looks like to have been shaped by intimidation, coercion, or protection related to the charge and made by an authoritative figure, it is deemed irrelevant and cannot be used against the individual confessing.

Section 28, on the other hand, states that if there was any enticement, threat, or a promise made to the accused in order to elicit his or her confession, but the confession occurs after the court

¹ Indian Evidence Act, 1862

believes that the impact of such influence has completely subsided, then the confession is considered pertinent and voluntary.

It is crucial to provide compelling evidence demonstrating that the effect of the inducement has genuinely ceased. For instance, in a case where a female servant suspected of theft was initially promised forgiveness by her mistress if she spoke the truth. Later, law enforcement officials indicated to her in the presence of her mistress that she was not obligated to speak unless she desired to, without explicitly mentioning the use of her statements as evidence. However, when the servant confessed her guilt, the court ruled this confession inadmissible. The court reasoned that the promise made by the mistress still had an impact on the servant's mind during the confession. The court suggested that if the mistress had not been present, the outcome might have been different.

Section 28

If a confession, initially considered unacceptable under section 24 because of inducement, threat, or promise, is subsequently made following the Court's determination that any influence from these inducements or threats has been entirely eradicated, that confession becomes admissible and pertinent.

Critical Analysis of Landmark Case Laws on Confession

In **Palak Narayan Swamy Vs. The king Emperor**². According to Lord Atkin, a confession must either openly admit to misconduct or conceal almost every important component of the offense in order to be valid. Just acknowledging a highly incriminating fact, even if it strongly suggests guilt, does not meet the requirements to be considered a confession.

In **Palvinder Kaur v. Punjab Province**³, In the Palak Narayan Swami case, the Exclusive Council's governing had to be overturned by the ruling of the Supreme Court of India in two key reasons. Firstly, any admission of guilt or revelation of facts constituting an offense in a person's statement is considered a confession. Secondly, if a person's statement is sufficient to clear them of any wrongdoing, it doesn't meet the Court's criteria to be labeled as a confession.

² (1939) 66IA 66

³ AIR 1952 SC 354

In the case of **Nishi Kant Jha v. State of Bihar**⁴, The Supreme Court emphasized the legitimacy of using specific portions of a confession while disregarding others. Referring to English legal precedents, the Court confirmed the admissibility of the incriminating section of the accused each individual's assertion, offered presented adequate proof to debunk those parts that calmed individuals of misconduct.

Judicial Confession

A judicial confession is made when someone acknowledges their guilt either in front of a magistrate or during court proceedings. It signifies a voluntary acceptance of wrongdoing by a mentally competent individual before a legal figure.

In the case where A is accused of G's murder, A can choose to confess to the crime before the trial begins. This admission might occur before a magistrate, who would record it according in accordance with the rules outlined within Section 164 thereof of the 1973 Code of the Criminal Procedure. Alternatively, A could also admit guilt while the trial is ongoing in the presence of a Sessions Judge. Both situations qualify as instances of judicial confessions.

Extra judicial confession

An admission offered by the accused person outside of the courts is known by the term extrajudicial confession. formal legal proceedings or without the involvement of a magistrate. It can be shared with anyone or a group without specific restrictions. This type of confession doesn't follow formal protocols and can take place casually during conversations or even in unofficial settings like religious gatherings or prayers.

In a situation where C is accused of slaughtering a stolen cow, an example of an extra-judicial confession might occur when, while discussing the incident, a villager asks C about the motive behind the crime. C responds by expressing remorse, apologizing for the actions, and seeking forgiveness. Such an admission made privately to an individual qualifies as an extra-judicial confession.

⁴ 1969 AIR 422, 1969 SCR (1)1033

Confession by Co-Accused

In the matter in **Pancho v. State of Haryana**, the Supreme Court⁵, It was concluded that confessions made collectively by multiple accused individuals have restricted evidentiary significance and cannot stand alone as substantial evidence. Consequently, these joint confessions merely strengthen conclusions drawn from other factual evidence.

Moreover, they underscored the considerable advantage of foreseeing and potentially preventing future occurrences as a significant benefit.

Determining the Legal Relevance and Admissibility of Confessions in Criminal Adjudication

The Indian Evidence Act's Sections 24, 25, 26, and the appropriate section during the 27th section of 1872 outline conditions that could nullify a confession. According to Section 24, if a confession is the consequence of intimidation, intimidation, or an undertaking offered by an authoritative figure, such as the police or magistrate, concerning an offense, it is considered irrelevant. Additionally, these inducements, threats, or promises must offer some temporal advantage. Section 25 specifies situations where a confession made under duress or inducement loses its validity.

In essence, these sections highlight those confessions influenced by factors like inducement, threat, promise, or coercion—especially when prompted by authoritative figures and related to an offense—are deemed inconsequential according to the Indian Evidence Act.

Police Interrogation and Confession

It is clarified by both the provisions of Section 25 of the Indian Evidence Act of 1872 as well as Section 162(3) of the Cr. P.C. that the declarations given to law enforcement are not considered admissible as a testimony in court. Information disclosed to the police cannot be considered as legally acceptable evidence. Cr.P.C. Sections 61 and 167 set time constraints for police investigations of arrests made without warrants—ideally within 24 hours or, if necessary, within 15 days. During investigations, police officers can verbally interrogate individuals involved in the case, but these statements cannot be formally validated or confirmed

⁵ 2011 AIR

as per Section 162(2). Section 161(2) mandates that police officers conduct interviews respectfully. Individuals questioned usually respond to all case-related inquiries except those that might incriminate them. Statements given not acceptable as testimony in the face during the police in any trial or prosecution associated with the ongoing investigation but can be used to challenge a witness's testimony.

Confessions in Police Custody

The Evidence Act contains provisions governing police interrogations, stressing the importance of non-coercive questioning of suspects. Police are prohibited from using coercive methods to extract admissions or confirmations from individuals during questioning. Except for information directly leading to discovering incriminating evidence, statements made by the accused in police interrogation cannot be used as evidence. This cautious approach regarding the reliability of confessions made to the police aims to safeguard individuals from undue pressure. While confessions to a police officer cannot be directly admitted as evidence, they can contribute to validating evidence obtained as a result of those confessions.

Under the Constitution and Evidence Act, employing coercion, torture, or pressure tactics to elicit incriminating information from individuals is forbidden. Despite these legal protections, law enforcement persistently employs aggressive methods, raising concerns about the reliability of confessions from accused individuals, witnesses, and the overall legal process. The widespread use of torture in Indian prisons and police custody has led to numerous deaths and severe injuries. Various factors drive this use of force: experienced criminals enduring severe punishment might prompt police to resort to forceful tactics to extract information. Consequently, many confessions made under such intense circumstances may not be genuine but rather a consequence of extreme stress during custody.

Additionally, the social status and influence of suspects in high-profile cases often impact witness testimonies. Moreover, corrupt practices can result in innocent individuals being arrested and pressured into confessing, leading to court convictions based on unreliable evidence. Instances of police misconduct in these cases have been frequent. Moreover, many police officers believe that using stringent methods is necessary when dealing with convicted criminals.

The Indian criminal justice system follows an accusatorial paradigm, prioritizing evidence over factual truth. This approach places significant emphasis on 'Confessionary Statements' as pivotal evidence in legal proceedings.

In **Dagdu v. State of Maharashtra**⁶, The Supreme Court's emphasis on law enforcement reconsidering their dependence on outdated confession-gathering methods underscores the potential ineffectiveness of a confession-centric approach. They urged a shift towards prioritizing thorough investigative techniques over a sole emphasis on securing confessions, warning that such a narrow focus might overlook crucial evidence and result in the loss of vital leads. Additionally, over-reliance on confessions could prove detrimental if they're later deemed inadmissible in court, causing significant hindrances to case advancement. Hence, it's imperative for law enforcement to conduct meticulous and autonomous investigations to construct a robust case, thereby mitigating setbacks that may arise if confessions are excluded from legal proceedings.

In **R v. Murugan Ramasay**⁷, The legal system has measures in place to stop individuals from admitting guilty details only to please authorities, regardless of whether their statements are true or not.

Recording of Confessional Statements

The legislation mandates that any statement made within the confession booth must be documented either in written form or using a device capable of reproducing sound or images (Section 32 (1) POTA). This rule resembles a comparable provision outlined despite the fact the previous law's definition of "electronic" is broader, it remains incorporated in the current the TADA System Act (Section 15 (1)). According to both statutes, only police officers ranking as high as superintendent of police are authorized to record confessions.

In the case **State of Maharashtra vs kamal Ahmed Mohmmad vakil Ansari and ors**⁸. In Particular Case No. 21 of 2006, inquires developed with regard to the legitimacy of declarations provided by the person being charged in front of non-defendant witnesses under the provisions governing the Indian Evidence Act, which is 1872. In Special The case No. 4 of 2009, the

⁶ 1977 AIR 1579, 1977 SCR (3) 636

⁷ (1964) 64 C.N.L.R. 265 (P.C.)

⁸ 2013 AIR

primary disagreement nervous whether the confessions given by the accused could be used as evidence to show either the accused or respondents were not accountable for seven different bomb explosions that occurred in seven excellent spaces of local trains operated by the city of Mumbai Suburban Railways. Yet it was clarified that in Exclusive Situation No. 4 of 2009, the accused parties their own health were already making the previously stated confessions.

The Afsan Guru case was noted in Indian history in the State (N.C.T. OF Delhi) vs. Navjot Sidhu @Afsana Guru case.⁹, as it aimed to contest the nation's sovereignty. This legal issue involved complexities concerning the validation of electronic records and their influence on the final decision. Despite these intricacies, the highest court partly supported the appellants, acquitting one accused of specific charges while confirming the convictions of S.A.R. Gilani and Afsan Guru. Following extensive deliberations, lawmakers decided to enact a law allowing the admissibility of electronic documents in court, intending to tackle the challenges brought about by contemporary times.

Confession under media trail

Indian courts are becoming increasingly aware of how important of confessional declarations made in the media, moving away from their prior dependence on accounting evidence. The Supreme Court's decision, allowing statements made by an accused to television channels to be admissible evidence, has brought a fresh and substantial element to conventional criminal law, incorporating the media into the proceedings of criminal trial.

Conclusion

In summary, emphasizing the importance of confessions in criminal trials remains crucial. According to the Criminal Procedure Code of 1973, admissions hold a significant place within the Law Compliance and the framework. Maintaining the credibility and validity of confessional statements is vital, requiring continuous adaptation of new methods and elements to handle such evidence throughout the country's existing rules of procedure and more expansive documentary scheme. In the Indian, where the police have both law enforcement and investigative responsibilities, the significance and reliability of admissions become exceptionally critical. In some cases, the heightened pressure within police agencies might lead to extreme measures, such as resorting to severe tactics like third-degree violence, to extract

⁹ 2005 AIR

confessions from individuals in authority or those under police custody.

The proposed amendment to the Evidence Act is highly important in rebuilding trust among the Indian population in the Judiciary, ensuring a prompt and fair resolution of grievances caused by individuals. The suggested 2003 Criminal Law (Amendment) Bill highlights the significant delays in criminal court proceedings, often causing trials to commence three to five years after the accused's detention. Therefore, it's crucial to amend Criminal Law provisions to expedite justice delivery for the common citizens. Ultimately, the focus isn't solely on delivering justice but also on ensuring its transparent administration, aligning with the principle that "Justice must not only be served but must also be visibly and transparently administered."

