
FALSE CONFESSIONS INDUCED BY POLICE: AN ANALYSIS

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ABSTRACT

People are usually convicted for murder, rape, harassments, manslaughter, etc but we might have hardly heard that someone who didn't commit any crime was convicted for such a heinous crime. In almost every country false confession is very common. This article lays emphasis on the types and causes, implications and consequences of false confession. It will also talk about how Indian law is codified against this. Some prominent cases and trials have also been mentioned in this so as to get an idea about how do we need to improve our justice system. This article also questions several issues regarding DNA exonerations which still needs to be answer. This also talks about how the mental and physical health of the confessor is affected by this, what socio-economic difficulties are faced by him, etc. This article adds up to the knowledge of readers from various disciplines like psychology, sociology, economics and law as the subject matter on which the article is constructed.

Keywords: confession, exoneration, psychology.

I. INTRODUCTION

Criminal law around the world takes confession evidence as extremely persuasive. It is based on the age-old myth that people only confess to crimes they commit, while this may sound logically correct but it doesn't take into account the various other factors in and around the case. It has been found that around 20-25% who had confessed to the police¹, were later exonerated with DNA evidence. Much more surprising is the fact that false confessions were higher in cases with capital crimes like murder, rape etc, taking into account the much more severe punishment capital crimes partake, it is a necessity for the administrative officials to alleviate the situation². Many of the researches conducted have been on real suspects and not in controlled environments, this is due to the inability of researchers to replicate the psychological situations present in a real life interrogation.

This is why much of research on causes and consequences of false confessions has been based on actual cases. False confessions if not detected can lead to conviction of the innocent and give freedom to the guilty. Interrogators use various techniques to extract confession, they bluff, use psychological and physical deprivation and provide reward opportunities to subjects in return for a confession.

A false confession is an admission of a criminal act which the confessor did not commit. There are four criteria by which a confession is said to be false: 1) if it is later discovered that the crime wasn't committed. For example, a person who was murdered is found alive. 2) Evidences show that it was physically impossible for confessor to commit crime. (eg. A person was not present at the place where the crime was committed) 3) if it is apprehended that the real perpetrator has no connection with the defendant but is linked to the crime. (eg. If there is intimate knowledge of physical evidence or non-public crime details) 4) scientific evidence or forensic reports proves that the confessor did not commit crime. (eg. DNA test results). These false confessions are difficult to discover because they aren't recorded by either state government or central government or any other NGO or organization. Even if there's some record, it is not publicized. It is also difficult to prove that the confessor was not guilty.

¹ White, 'Confessions in capital cases' (2003) University of Illinois Law Review.

² Drizin, 'Tales from the juvenile confessions front In G.D. Lassiter (Ed.), Interrogations, confessions, and entrapment' (2004), New York: Kluwer Academic.

II. TYPES OF FALSE CONFESSIONS

False confessions are classified into three types which are-(A) voluntary, (B) compliant and (C) internalised. This classification has been done with conclusive evidence on sociological and psychological theories with reference to statistical conclusions.³

A. Voluntary confessions.

Although it is only natural for confessions to be based on a human need to confess the guilt for conscience but voluntarily false confessions have been found to be done due to various psychological and pathological reasons. Voluntary confessions are those confessions in which people confess without getting prompted by law enforcement agencies. This has been known to be higher in cases with high profile connections. people have been found to voluntarily false confess due to feelings of guilt, fear, overt need for attention, as a way to protect someone else and for self-punishment.⁴ In these confessions, overriding the factual statement given by the person, there is little to no and/or vague justifications. The gap here is filled by psychological motives stated above.

There have also been instances where false-confessors have been found to confess due to their expectation of judicial leniency, when they perceive that circumstantial evidence and public opinion (although wrong) will result in their conviction. Therefore he/she holds the opinion that false confessing might help him/her get a lighter sentence.⁵ Further on, the law enforcement agencies have an inherent professional intimation to clear and solve as many cases as possible therefore, they have been found to ask the felons to falsely confess of other crimes which they didn't commit.

The felons do as no more harm can come to them and in hope of getting a lighter sentence due to their cooperation and the police gets to shoe one more solved case on their card. Then there are those who have been found to confess for no apparent reason, these are just due to psychopathic catalysts. Examination of statistics has found that around 10% of voluntary confessions are due to psychopathic reasons.⁶ One such strange case happened in the United States in 2008. A Mr. Benally confessed to having a truckload of marijuana with him just to

³ Saul M. Kassin, 'False Confessions' (2008) 17 Current Directions in Psychological Science.

⁴ Stephen Cale, 'The Psychology Of False Confessions | Cale Law Offices' (*Cale Law Offices*, 2018) <<https://calelawoffice.com/the-psychology-of-false-confessions/>> accessed 4 December 2021.

⁵ George H. Dession and Edwin M. Borchard, 'Convicting The Innocent' (1932) 41 The Yale Law Journal.

⁶ Morris Ploscowe, Manfred S. Guttmacher and Henry Weihofen, 'Psychiatry And The Law' (1953) 52 Michigan Law Review.

express his dislike of the marijuana laws of the country. No factual justification could be found in the case, but the confession put the law enforcement agencies on their feet for a long time.⁷ Another reason is a rare manifestation of 'toedium vitoe', an inherent need to self-destruct, also called 'suicide by false confession', people have been found to confess to capital crimes just to harm themselves and as a way to use capital punishment to commit suicide.⁸

B. Compliant confessions.

Compliant confessions are those which rather than bring an innate choice of the individual, are induced by the law enforcement agencies by way of offering lenient sentences, helping avoid a stressful situation, by using interrogation techniques or by promising reward to the suspect/ confessor. This type of false confessions can be understood with reference from Milgrams classic obedience theories and hypothesis⁹. He perceived social beings to obey in order to sway short term benefits over long term ones. The false confessors are also social beings who under public compliance needs, weigh short term benefits over long term benefits and end up confessing in order to get out of the adverse condition they presently are in while not considering the long-term freedom are giving up. Another reason compliant false confession take place is due to the law enforcement agencies suspending the logical ability of the suspect through exhaustion, hunger or stress. Young people who have been conditioned to please authority figures and do not understand their rights are high on the vulnerability scale.¹⁰ Law enforcement agencies also use untrue statements about incriminating evidence to solicit a confession and thus fearful suspect with the base that failure to confess will lead to a harder punishment, gives in.¹¹ these type of confessions are many a times recanted by the confessor after the investigation ends, thus exposing the gap in the way law enforcement agencies solicit confessions. Law enforcement taking confessions by causing impairment, intoxication or coercion is not ethical, and generally not admissible in court but whether confessions have been solicited by ethical ways or not has been found to be suppressed in court rooms by the agencies. In this era of modern forensic science, researchers have come to

⁷ *UNITED STATES v BENALLY* [2008] United States Court of Appeals, Tenth Circuit, 07-2194 (United States Court of Appeals, Tenth Circuit).

⁸ Francis Wharton and others, 'Wharton & Stille's Medical Jurisprudence' (1905) 5 Columbia Law Review.

⁹ Stanley Milgram, 'Behavioral Study Of Obedience.' (1963) 67 The Journal of Abnormal and Social Psychology.

¹⁰ 'False Confessions & Recording Of Custodial Interrogations - Innocence Project' (*Innocence Project*, 2019) <<https://www.innocenceproject.org/false-confessions-recording-interrogations/>> accessed 5 December 2021.

¹¹ *Ibid* 10.

understand the importance psychological science plays in compliant false confession cases. It reiterates how people tend to become obedient when faced by authority figure who potentially could cause adverse conditions.

C. Internalised confessions.

Internalised confessions are those where mostly vulnerable suspects (due to age, mental capacity, disability etc.) are exposed to highly suggestive interrogative practices and are made to only confess but also start believing that they actually committed the crime. These confessions are based on changing the suspect's beliefs and accompanied with suggestive measures to cook up false memories in the mind of the said victim.¹² Law enforcement use bluffing about incriminating evidence as a tool to incorporate the idea in the suspect's mind that they actually committed the crime. An experiment conducted to test how bluffing actually affects confessions found that bluffing affects the mind of a suspect as much as visual presentation of false evidence does and thus effects faulty confession rates consequently.¹³ Some countries, including big democracies like the United States allow false evidence deception as a way to extract confession.¹⁴

People psychologically start feeling helpless when confronted with false evidence which is made to seem incriminating and thus they tend to lose focus and logic and end up feeling trapped by the apparent strength of the situation around them and give in to reclus the situation, without realising the long term consequences it may have on them.¹⁵ False evidence also leads to false confessions as they create can create confusion and havoc in a person's mind which thus leads to the person not believing his own memories and end up feeling guilt with fabricated memories about crimes they didn't actually commit. It has been found that such manipulation techniques like false evidence presentation and bluffing double the false confessions and although being used by law enforcement agencies as a tool to further justice, might end up doing exactly the opposite. They might seem to be a good way to get suspects to confess but they might also increase the instances of false confessions.

There have been cases where the police persuasion was so powerful that the suspect started

¹² Saul M. Kassin, 'False Confessions' (2017) 8 Wiley Interdisciplinary Reviews: Cognitive Science.

¹³ Jennifer T. Perillo and Saul M. Kassin, 'Inside Interrogation: The Lie, The Bluff, And False Confessions.' (2011) 35 Law and Human Behavior.

¹⁴ *Frazier v Cupp* [1969] Supreme Court of the United States, 394 (Supreme Court of the United States).

¹⁵ James Marshall, 'Evidence, Psychology, And The Trial: Some Challenges To Law' (1963) 63 Columbia Law Review.

thinking that he had split personality disorder and consequently developed the said disorder. he was quoted as saying, 'I don't know how I did it, all I know is I did it'. He was also convinced that his other personality was the one with anger issues and is the one committing the murders.¹⁶ An example of 17-year old Mary Tankleoff can be taken, he was accused of killing both his parents in cold blood. During a 5+ hour interrogation the detective working the case, put up various false evidence in front of the boy, going to extreme extents and saying that his father had regained consciousness and given his statement claiming that the boy attacked the couple. Mary eventually confessed, thinking that he killed his parents when he blacked out. 19 years later, he was exonerated on DNA evidence.¹⁷

III. CAUSES OF POLICE INDUCED FALSE CONFESSIONS

There is no single cause of false confession; false confessions are caused due to a multistep process in which the factors include police interrogation techniques and suspect mental stability and stress capacity. Suspects with certain personality traits and dispositions are more likely to give a false confession. Persuasion and confession eliciting techniques and their severity plays an important role in the formation of the conditions which lead to a suspect giving a false confession. Therefore, in order to understand how the interrogating techniques can cause a suspect to give a false confession, we must understand what errors lead to such a situation. Confessions are mostly caused due to three sequential errors¹⁸. Law enforcement firstly misclassify an innocent person as guilty, then they project on him/her a guilty-presumptive and use bluffing, false evidence and promise of reward to illicit a false statement. Then they jointly with the suspect vividly shape the happening of the crime, using the suspects memories and concocting them to fit in their presumptive facts of the case. These are the three causes/ errors which lead to false confession.

They are, (A) misclassification error, (B) coercion error and the (C) contamination error¹⁹.

A. *Misclassification errors.*

The road to a false confession starts where a detective/policeman target an innocent man as

¹⁶ Mark Costanzo, Netta Shaked-Schroer and Katherine Vinson, 'Juror Beliefs About Police Interrogations, False Confessions, And Expert Testimony' (2010) 7 Journal of Empirical Legal Studies.

¹⁷ Edwin Salpeter, 'Bethe-Salpeter Equation (Origins)' (2008) 3 Scholarpedia.

¹⁸ Frances E. Chapman, 'Coerced Internalized False Confessions And Police Interrogations: The Power Of Coercion' [2014] SSRN Electronic Journal.

¹⁹ Linda A. Henkel, 'Doing Justice To The Complexities Of Interrogations: Police Interrogation And American Justice. R. A. Leo (Ed.). Harvard University Press, Cambridge, MA, 2008. No. Of Pages 374. ISBN 0-674-02468-9' (2009) 23 Applied Cognitive Psychology.

guilty and once such a target is set in the mind of the said people, all interviews, interrogations and detection are guided with a thought of presumptive guilt.²⁰ If the police didn't misclassify a person as guilty there wouldn't be a false confession, this being said, misclassifying innocents as guilty is the first and foremost step for a false conviction. This misclassification is caused to due cognitive errors on the part of the law enforcement agencies. Around the world, police officers and detectives are taught the various indications and behaviours of a guilty man/women. They are taught a blueprint of what a person who is lying will behave. For example, law enforcement will classify a person based on how he/she averts his gaze, slouches, shifts his/her body posture, touches his/her nose, adjusts or cleans his/her glasses, chews his/her fingernails etc. They use these behavioral markers as a way to decide if someone is guilty or not.

However, social science has reiterated many a times in a number of researches that humans are very poor lie detectors and thus are prone to a bad judgement in deciding guilt of a person based on behavioral markers. Even trained individuals cannot correctly identify a lying person on more than 50% of instances²¹. Innocent people are also misclassified due to other reason, they might fit the description of an eye witness, might keep coming up in an investigation or maybe wrongly connected to the past of the person against whom the crime was committed. Family members of the dead have been made to falsely confess to the murder of their wives, husbands, children etc. this is due to the police misclassifying suspects based on the suggestive situations and vivid eye witness recollections.

B. Coercion errors.

Once a person is misclassified by the police, they guide their thoughts with the presumptive guilt of the suspect. They then depend on confession evidence to further the case as factual evidence cannot be found. This is especially the case in high profile and homicide cases as in such cases, there is public pressure and little to no actual evidence. There is typically no evidence against a misclassified individual and therefore it is not surprising that the highest number of false confessions are solicited in capital crimes and high-profile cases.²²

²⁰ Haven Niland and Daniele Ortu, 'Confessions Selected By Consequences: An Operant Analysis Of False Confessions And Interrogation Techniques' [2021] Behavior and Social Issues.

²¹ Charles F. Bond, Jr. and Bella M. DePaulo, 'Accuracy Of Deception Judgments: Appendix A' (2006) 10 Personality and Social Psychology Review.

²² Jason Ralston and others, 'False Confessions: An Experimental Study Of The Innocence Problem' [2019] SSRN Electronic Journal.

Once the case moves forward, the main cause of false confessions – police psychological coercion methods start. Psychological coercion by the police can be defined in two ways- the first is where the police uses methods which are coercive in law and the second is where the police use interrogation methods in such a way that the suspect believes that he/she has no way out and has no other choice other than complying with the authority figures.²³ Psychological methods include deprivation of food, water, light etc. and infliction of fatigue and exhaustion. These techniques are rather rare in today's society. Today the police usually use the second type of coercion, they demand compliancy and project themselves as authority figures while also suggesting a harsher punishment if they do not confess. The police use the reward system also too lure the suspect into confessing.

All in all, they put it in the suspect's mind that he/she doesn't have any choice other than confessing. This works due to the structural environment of the interrogation process – there are authority figures, the suspect is isolated, his basis of life (food, water) are controlled, his freedom is gone and he is subject to pressure to confess²⁴*7. This technique creates stress in the suspect who is already senseless and has lost his/her sense of logic. he/she perceives that the only way out of this is to confess and get it over with.

C. Contamination errors.

Psychologically Coercive police methods take the innocent suspect from denial to admission but with an admission, a factual backstory corroborated with the suspect is also required. A subsequent narrative is required to contextualize the confession. This is also called the 'postadmission phase' of the interrogation. These use influence and compliance techniques to shape and gave a blueprint to the subject's narrative. The goal here is to concoct such a narrative which reflects on the confession thus leading to conviction.

The interrogators intercept the subject's thoughts and shape them accordingly with scenario-based inducements to perfect the narrative. Many a times, this is unknowingly done by the interrogators, they think they are just joining dots to form a narrative whereas they are indirectly forcing the subject to create the dots, which they join to come to a conclusion on the facts of then scenario or situation. The interrogators also get to build a narrative by inducing the subject to remorse another wrong thing he/she may have committed and take it

²³ Mark Zelig, 'False Confessions, Police Interrogation Tactics, And The Case Of The Messengers Who Almost Killed The Message' (2011) 56 *PsycCRITIQUES*.

into context to make the confession as an act of conscience.

A particular case where a confession was sought by promising an old man psychological help in prison for his act of cheating on his wife if he admitted to the rape of another women. They provide scenarios which vividly match the subject's knowledge to induce the narrative.²⁴ The interrogators use suggestive techniques to induce to a person's sub conscience that the events occurred in the way they were suggested. Therefore, an innocent person's post admission narrative is many a times not accurate and based on vivid and random situations. Although, they are explicitly made to stick to the concocted narrative, yet a lot of gaps can be found in the story presented to the court. The judiciary can use this to ensure that false confessions don't result in convictions.

IV. IMPLICATIONS

(In accordance with Indian law)

A. Confessions to the police and Indian reference.

Section 25 of Indian Evidence Act says that, "no confession made to police officer shall be proved against a person accused of any offence."²⁵ Reason for this exclusion is – another variety of confessions that are regarded as involuntary and are under evidence act made to the personnel. Section 25 expressly states that such confessions shall not be proved.

If confessions were allowed to be proved as evidence, there were higher chances that police would torture and harass the accused and force him to confess the crime which he might not have committed. This confession would be unreliable in nature. It wouldn't be voluntary. It will be irrelevant in various forms expressed or implied. The reasons for which this policy was adopted are still valid.

In *Dagdu v. State of Maharashtra*, Supreme Court noted that the archaic attempt to secure confessions by hook or by crook seems to be the be-all and end-all of the police investigation. The police should remember that confession may not always be a short-cut to solution. Instead of /trying to "start" from a confession they should strive to "arrive" at it. Else, when they are busy on their short-route to success, good evidence may disappear due to inattention

²⁴ *Lowery V. County Of Riley*, 522 F.3D 1086 – Courtlistener.Com' (*CourtListener*, 2013)
<<https://www.courtlistener.com/opinion/170567/lowery-v-county-of-riley/>> accessed 5 December 2021.

²⁵ The Trademarks Act, 1872, §25, No. 1, Acts of Parliament, 1872 (India).

to real clues. Once a confession is obtained, there is often flagging of zeal for a full and through investigation with a view to establish the case de hors the confession, later, being inadmissible for one reason or other, the case fondles in the court.²⁶

In *Murugun Ramasay* case police authority itself stated that however, carefully controlled a menace is, to those brought suddenly under its shadow and the law recognizes and provides against the danger of such persons making incriminating confessions with the intention of placating authority and without regard to the truth of what they are saying.²⁷

A.1. Effect of Police Presence

Presence of the police shouldn't merely affect this. When confession is given to someone else and police who is just casually present there and hears everything won't destroy the voluntary confession. But if that person is some secret agent or assistant of police and is specially sent there for the purpose of receiving confession, it will suffer from the blemish of being a confession in front of police.

In an unusual situation, the accused left a letter or recording near the dead body which contained his confession with the object that it should be discovered by police. Supreme Court held that this confession was real and relevant since there wasn't any shadow or instances of policeman when the accused was writing letter or planting it.

A.2. Exclusion of confessional statements only

This applies only to the statement which amounts to a confession. If it falls short of confession which means that if the guilt hasn't been admitted sustainably all the facts which amounts to an offence, it will be admissible even it is made to policemen. For example, the statement in which accused speaks to the police about him witnessing a murder is not a confession. This isn't considered as confession as it was evidence received by him showing his presence on crime scene.

B. Statements during investigation

A confessional statement made to police a person is irrelevant even before he is accused of any offence. The section clearly states that such statement can't be proved anyone who is

²⁶ AIR 1977 S.C. 1579.

²⁷ AIR 1964 C.N.L.R. 265.

accused of any offence. In simple words it means that if the accusation is subsequent to the statement, proving the statement can't be done.

C. Confessional FIR

If the confession is part of FIR i.e. First Information Report, only then it is admissible. However, this does not amount to confession which is mentioned under the scope of section 27 of the act.²⁸ But the non-confessional part of that particular FIR can be used as evidence against the accused. This is mentioned under section 8.²⁹

D. statement not amounting to confession

For example, a statement 'the design was successfully carried out according to the plan.' Now this statement does not refer to the person or people involved in the crime and not the one who made the statement refer to him. Thus, it is not a confessional statement and cannot hit by section 25. If the statement has been made by any inspector that the accused had accepted his guilt before him that he committed some crime but accused denied that he didn't, then the statement isn't even admissible as an evidence.

E. Special legislation

Under TADA Act, 1987 section 15 it is stated that confessional statements weren't excluded from using it as an evidence on grounds that the person who confessed were in police custody. The court also held that in some case, section 15 was used as departure from ordinary law and interpretation whose object is to achieve the record that the confession was recorded under section 15. Recorded evidence should be substantive in nature and could be used against a co-accused also.

F. Confession of accused while in custody

A confession made by any person while he is in custody of a police officer is not considered as a valid confession unless it is made in presence of a Magistrate. Object of section 26 of The Evidence Act is to prevent police from abusing their powers. Hence, if the confession is made by an accused whilst he is police custody, then such confession cannot be proved against the accused unless it is made in the presence of a magistrate. It is so because the

²⁸ The Trademarks Act, 1872, §27, No. 1, Acts of Parliament, 1872 (India).

²⁹ The Trademarks Act, 1872, §8, No. 1, Acts of Parliament, 1872 (India).

custody of police officer will be considered as coercive opportunity for extorting the confession through any undue influence.

In *Kishore Chand v. State of Himachal Pradesh*³⁰, the confession was made to pradhan (village head) who was accompanied by an enquiry officer of police. So the inference made from this is simply that the confession was made under police custody and thus it can't be proved against him. In this case, it is quite obvious that police officer had created such scene in order to avoid section 25 and section 26 of the Evidence Act. The police officer had then left the accused in pradhan's custody. Police officer then won't face any difficulty to take accused before Judicial Magistrate and take his confession under section 64 of Cr.P.C. This section of Cr.P.C. has got more probable value as it also gives an opportunity to warn the confessor that his confession can be used against the accused. However, under section 26 of the Indian Evidence Act, this confession cannot be proved against him.

There must be two things to constitute custody. First, there must some force of control imposed upon the confessor i.e. he must not be at liberty to do whatever he wants to or go wherever he likes to. Second, this control must be imposed by an officer indirectly.

In the case of *R.V. Lester*, the accused was being taken by police officer in a horse cart. In the absence of the officer accused confessed to horse cart driver that he has committed the crime. Here the temporary absence of the officer didn't make any difference. It was held that the confession has been made under police custody. In another case, a woman was charged with murder of her husband. She was taken into police custody where her friend accompanied her. The police left the woman with her friend for a while and went for some work. Meanwhile the woman confessed her guilt. This confession would not be admissible as the prisoner should be regarded in police custody in spite of the fact that he was temporarily absent. But when the accused is not arrested or he isn't even under the supervision of the police and is just invited to explain the circumstances, it would be explained further that the section only warrants the exclusion of statement which is made by accused on the grounds that he is deemed to be in police custody.

In second scenario, where the accused has consumed poison and she was moved to hospital for treatment and from the moment she was admitted in hospital till her discharge, police personnel were not present in room, they were neither in the vicinity of the hospital nor did

³⁰ AIR 2140 S.C. 1990

visited hospital frequently. Thus it can't be said that the movements of accused were restricted or she was under any control of police personnel.

Scope of section 24, 25 and 26 exclude some confessions. Section 24 states that if a confession seems to have been caused or it may cause threat or inducement from someone who in authority, then such confession will not be relevant. Thus can't be proved against confessor. Section 25 states that if the confession is made to a police officer, then it is not a valid confession. Section 26 lays down that if a person confesses his guilt to someone else who is not a magistrate while being in police custody, then such confession is not relevant and can't be proved against him.

V. CONSEQUENCES

It is inevitable that innocent people will become the target of this. They'll be subjected to excessive interrogation, some in their own self interest will naively confess and waive out their rights. One might have belief that this is protected by safety net of police, judges, prosecutors, etc and they are capable to distinguish between true or false confessions. One might even argue that these confessions aren't tragic and are tolerable.

The process begins with the police. It has been seen that when numerous false confessions are revealed and the confessor has confessed, police will close their investigation. It is then considered that the case has been solved. It isn't observed that whether the confession is consistent or not or does it matches with external evidence or coercive interrogation. Upon confession, prosecutors voluntarily set higher bail, charge suspects with highest number and type of an offence and are even less likely to accept plea bargain to reduce punishment or charge.

But the problem is that one confession can taint other evidence. In one case of Barry Laughman³¹ who confessed to rape and murder was later found non-guilty because the blood type didn't match. Influenced by the confession, forensic department concocted four theories but none of them explained away the mismatch of the blood type. However, he was set free 16 years later. In another study of Hasel and Kassin (2009)³², it was staged a theft and took photographic identification decisions from a large number of eyewitnesses who were present.

³¹ Laughman v. Commonwealth of Pennsylvania [2007] Civ.-1033.

³² Hasel, L. E., & Kassin, S. M. (2009). On the presumption of evidentiary independence: Can confessions corrupt eyewitness identifications? *Psychological Science*, 20, 122–126.

One week later, individual witnesses were told that the person they had identified denied guilt, or that he confessed, or that a specific other lineup member confessed. Influenced by this information, many witnesses went on to change their identification decisions, selecting the confessor with confidence, when given the opportunity to do so.

It is not so surprising that the confessions are particularly potent in the courtroom only. For example in US when a person retracts his confession and pleads not guilty, trial takes place and a sequence of two decisions is set. First, a judge, on the basis of evidences will determine whether the confession was voluntary or not. Then jury hears the admissible confession and then determines whether defendant is guilty or not beyond any reasonable doubt. But the question again is whether people can distinguish between true or false confessions? However, in India end of jury trial happened after the case of KM Nanavati.

Research has shown that impact of confessions is more than the impact of actual evidences even if they are judged to be coerced or if the confessions are secondhand by someone who is motivated to lie. Sometimes the defendant confesses to the police immediately upon questioning. Surveys done in recent years have concluded that although the layman understands that there are certain interrogations and tactics which are psychologically coercive, they do not believe that these interrogation tactics elicit false confessions. Analysis of archives also reinforces this.

There are at least three reasons why people fail to distinguish between true or false confessions of innocent. First, generalized common sense makes people trust confessions in the same way they trust other behaviors that contradicts self interest. Over the years, psychologists have found that social perceivers tend to make dispositions decisions or attributions by studying a person's actions, behavior, expressions and neglect the role situational factors. Gilbert and Malone in their research explained various explanations for this. The most compelling out of all explanations was that people draw quick inferences from behavior of confessor and thus fail to adapt the correct situational constraints.

Second reason is that the people aren't too adept to detect the deception. Neither layman nor professionals are capable of distinguishing between true or false confessions at higher accuracy level. The third reason is basically an assumption that "I would know a false confession if I saw one." This is the reason for concern. Police induced false confessions often has the content that is associated with truthfulness. Almost every false confession is

accompanied not only with admission of guilt but also with full details of the crime scene and victim.

It becomes more complicated when false confessors not just state what and how they allegedly did but also why they did it. They self-portrait the reports of revenge, financial desperation, jealousy, peer pressure and other sociological motives for crime. Now, to a naïve spectator, such views and statements appears to be voluntary and true. This illusion fades away the reality.

A. Adverse effects on the victims

This fact might not be difficult to accept that the average age of confessors is 27 at the time of their conviction and they serve approx 13.5 -14 years in jail. But aftermath of this imprisonment is something to be considered as a matter of corner. Most of them will suffer Post Traumatic Stress Disorder (PTSD). This might even gradually change their behavior and emotions. Some of them start counting on liquor, drugs, etc to overcome depression. Their families along with them also become the prey of wrongful conviction.

Their families face difficulty as the exonerees isolate themselves in separate room, don't share their feelings, keep distance with family members, never talk to anyone, etc. after spending 13-14 years in prison they have accustomed themselves according to prison's environment and find it burdensome to carry on themselves with household practices. Some of them even go through mental instability and mental weakness. Serving long sentences like this affects their mental health.

Same thing happened with former baseball player, Ronald Keith who was convicted for raping and murdering a child. After his release from the prison, he had gone through several health issues and mental weakness. He even tried to attempt suicide. He died at very young age of 51.

Michael Williams in other such case, was just sixteen years old when he was wrongfully convicted for rape of his tutor and he was put behind the bars for 24 years. More than half of his life before he was exonerated, he faced different types of difficulties. He became stranger to his family and had nothing to do with his brothers and sisters. He described his life as very lonely and was the only teenager in the prison. After his release, he struggled with his inability to drive, use mobile phones, type on computer, etc. The social life of these people

becomes extremely difficult. People start maintaining distance, avoid interaction and consider them as murderer or rapists or criminals. They don't get employed anywhere and even if they do, they are discriminated.

We all know that it is very difficult to let go a custom. Customs do not erode so easily and lasts for centuries. They are almost immemorial. The perception is that it has now become a tradition to view wrongfully convicted as criminals in every society. Even in the most civilised societies of the world, such traditions are still prevailing. As it is said that old flames die hard, this tradition also won't fade away in few months or years.

B. The contribution of DNA evidence and the problems confronted

With the technological advancement, it has now become very easy to verify DNA tests. It was in the early 1980s when DNA evidence started to materialize. Earlier, there were many deterrents in the path of swift functioning of the tests. There were procedural hurdles too. Limitation statute was also one of restriction in this. The question here is that why even the prosecutor protest for the use of DNA tests post-conviction?

One of the reasons can be the cognitive human psychology that no one likes to be acknowledged wrong especially in the courtroom where everything is being witnessed by large number of people. Sometime it is covered by media too. Here prosecutors will try to defend themselves rather than accepting the truth because it might harm their reputation. It is obvious that DNA test will let the cat out of the bag. Thus people mainly prosecutors doesn't favor this. These DNA exonerations have revealed three sets of problems: (a) Police cannot distinguish between liars and truth tellers. (b) This interrogation tactics put innocent people at risk to confess and if they are young, impaired or vulnerable. (c) Judges and juries usually trust confessions without verifying if they were made under some coercion or undue influence or not.

C. Chain of confession

A confession made by a suspect sets in motion and is irrefutable because the presumption of the guilt is already present among the judicial officers, media, the public and the jurors. This chain of events will be stacked against the confessor at each and every stage and he'll be treated more harshly in the trial process. He is significantly more likely to be held guilty before trial, charges and investigation. It becomes difficult for him to plead guilty. Moreover,

the presence of confession creates its own set of cross confirmation contaminates the biases.

Now if the case is against an innocent false confessor which moves from one stage to another, in the criminal justice system it will gather more collective influence and the errors will become difficult to reverse.

This chain reaction starts with the police. Once the confession is obtained, they close the investigation and show that the case has been solved. Later no efforts are made to investigate further by any other internal or external evidence or any coercive action. Even when other cases or evidences show or suggest that the confession is false, police won't pay much attention to it and continue to believe in confessor's guilt. Police tend to assume that all confessions are true and the one who confesses is held guilty.

VI. CONCLUSION

Confessions have always been considered as an ultimate epilogue when a case is just about to close. They are no less than considered as evidence in detection. Confessions have always played an important role in altering the decision. But false confessions are something which substantiates the last sentence. Effects of confession to an offence one didn't commit can result into amalgamation of psychology and law. False confessions can be seen as a subset of wrongful conviction. It has led to a chain of questions which needs to be debated, addressed and concluded with a solution. False confessions should not be exhibited as something which is incurable but also as an obstacle in the path of justice. It isn't impossible but it will require lots of efforts from criminal procedure acts. Summarising that such a big obstacle can't be eroded in a day or two but definitely at some point of time.

With increased technological attention to the problem of false confessions, we believe that it is possible to reduce the serendipitous nature of the confession in accordance with law.