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VALIDITY OF SCIENTIFIC TESTS IN INDIA: CRIME DETECTION TECHNIQUES

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ABSTRACT:

This paper is devoted to exploring the validity of scientific tests. In our Society crime rate is increasing day by day. In this era, new crime detection techniques like Narco Analysis, Brain Mapping, Lie detector tests, etc. play a very important role. The paper will discuss the use of forensic evidence in the investigation and prosecution of cases. It is useful for experts to have specific knowledge and skills that can guide them but there is a certain discrepancy in that examination. Judgment on the basis of this examination is not pronounced very easily. Now, what should be done for free and fair examination the paper will highlight these concepts. Despite India's economic liberalization which began more than two decades ago, bringing with it more progressive Western ideas, the investigation of crime is still done in a very low-phase manner. The Paper seeks to prove that notwithstanding many changes that have been made in our laws, the problem is not solved yet. The Paper will highlight the loopholes in laws and most importantly the paper will describe the types of confession of the accused and the principles governing them. The paper will discuss the value of retracted confession. In the end, there are some suggestions to improve the present investigation system.

INTRODUCTION:

Of all the branches of law, the branch that closely touches and concerns a man in his day-to-day life is criminal law, yet the law is not in a satisfactory state. Many attempts have been made to define crime, but they all fail to identify what kind of act or omission amounts to a crime. Perhaps, this is because of the changing notions about crime from time to time and place to place. The very definition and concept of crime varies not only according to the values of a particular group and society.¹ It deals with faith, religion, attitudes, customs, traditions, and taboos but also according to the form of government, the political and economic structure of the society, and a number of other factors.²

Now the question arises, how the crime can be solved fast and the victim get effective and

¹ abyssinialaw, <https://www.abysinialaw.com/study-on-line/376-criminal-law/7309-the-concept-of-crime>, (last visited Nov. 6, 2023).

² Prof. S.N. Misra, "Indian Penal Code 1860 ", Central Law Publication.

quick justice? Forensic science will be helpful in the detection of crime. The concept of forensic science is not a new one in India, though its application was not known by our Indians. Forensic Science, an amalgamation of almost all faculties of knowledge is an essential and efficient enabler in the dispensation of justice in criminal, civil, regulatory, and social contexts. Historically our forefathers in India have practiced forensic application in a variety of forms. Forensic science in today's world is an advanced scientific technique that is used in criminal and civil investigations, it is capable of answering important questions and forms an integrated part of the criminal justice system. Both State and Central Governments have developed Labs for the same which intern assist courts, police systems private agents, and individuals during investigation or cross-examination procedures.³⁴⁵

During the investigation forensic evidence is collected by the expert at the scene of the crime and each piece of evidence is so collected is so unique in its own way that it becomes necessary to test it and to analyze it separately in order to reach the conclusion. Sometimes, complex cases involve multiple experts specializing in the same field to examine and give the analysis with respect to the evidence collected.

Criminal Procedure Code and Indian Evidence Act 1872 are the parent procedural laws that govern criminal trials in India, while Criminal Procedure Code prescribes the procedure from the point of taking cognizance of crime by appropriate judicial Magistrates till the delivery of final order of Conviction or acquittal or any appropriate order looking into the fact of the case. Indian Evidence Act is limited in its scope of leading pieces of evidence in civil or criminal cases either by the prosecution or defendant, applicant, or respondent. The act also deals with the kind of evidence and relevancy of any fact that can be brought as evidence in any case.⁶

1. Scope of Forensic Science

The first paragraph of Alfred Swaine Taylor's Principles and Practice of Medical

³ Nivedita Grover, Isha Tyagi, Development of Forensic Science and Criminal Prosecution-India, 4, International Journal of Scientific and Research Publications, 01, 05, 2014, <https://www.ijsrp.org/research-paper-1214/ijsrp-p3674.pdf>

⁴ NyayDristi , Forensic Science & Criminal Justice System In India, nyaydristi, (Nov. 27, 2023, 9:29 PM), <https://nyaydristi.in/applicability-of-forensic-science-in-criminal-justice-system-in-india/>

⁵ Bansal, Reetika. (2020). DNA TESTING (Changed Paper).

⁶ Adarsh M. Dhabarde, Forensic Evidences in Criminal Trial: Need of the Hour

Jurisprudence, first published in 1865 explains the scope of forensic medicine thus:⁷⁸

Medical Jurisprudence or as it is sometimes called Forensic, Legal, or State Medicine may be defined to be that science that teaches the application of every branch of medical knowledge to the purposes of law: hence its limits are, on the one hand, the requirements of the law and on the other the whole range of medicine. All branches of science are required to enable a court of law to arrive at a proper conclusion on a contested question affecting life or property.⁹ Developed by CR Mukundan, a neuroscientist at the National Institute of Mental Health and Neuroscience in Bangalore, this non-invasive technique –which harnesses electric signals from the brain, has been used in states like Maharashtra and Gujarat since the mid-2000s to detect a suspect's involvement in a crime.¹⁰

2. Scientific Evidence cannot override Reliable Direct Evidence

If direct evidence is satisfactory and reliable, the same cannot be rejected on hypothetical scientific evidence.

If the evidence of the witness for the prosecution is totally inconsistent with the scientific evidence, it is a most fundamental defect in the prosecution case and unless reasonably explained, it is sufficient to discredit the entire case. When scientific evidence is presented at a trial, judges have to be told about information pertaining to testing errors and also information about the error rate of the laboratory where the tests were done.¹¹ This is especially important for DNA evidence, which may identify a person. For example, a DNA test might show that the probability of two people's DNA matching is one in a million. However, the probability that the laboratory made a mistake in the testing is one in 500. The judges should be informed of this possibility of error. Most of the time, courts will accept testimony about the statistics of a DNA match.

Scientists in Israel, at a company called Nucleix, found out that it is possible to fabricate DNA

⁷ Taylor AS, *The Principles and Practice of Medical Jurisprudence*, London 1965.

⁸ Gowsia Farooq Khan, Sheeba Ahad, *ROLE OF FORENSIC SCIENCE IN CRIMINAL INVESTIGATION: ADMISSIBILITY IN INDIAN LEGAL SYSTEM AND FUTURE PERSPECTIVE*, 07, *International journal of advance in science and engineering*, 1124, 1128, 2018, <https://courseware.cutm.ac.in/wp-content/uploads/2020/06/role-of-forensic-admissibility-in-indian-legal-system.pdf>

⁹ Dr Shilekh Mittal, Dr Sonia Mittal, Dr Moneeshindra Singh Mittal, *Evolution of Forensic Medicine in India*, 29(4), *JIAFM*, 89, 90, 2007, <https://www.forensicindia.com/journals/jiafm/t07/i4/jalt07i4p88.pdf>

¹⁰ Mohua Das & Sharmila Ganesan, *The Mindhunters: How brain mapping detects memories of crime*, *timesofindia.indiatimes*, (Nov, 27, 2023, 9:29 PM), <https://timesofindia.indiatimes.com/india/heads-up-how-brain-mapping-tests-mind-of-crime-suspects/articleshow/101073852.cms>

¹¹ M.L. Singh H.J.S., *MEDICAL EVIDENCE AND ITS USE IN TRIAL OF CASES*, 3, *J.T.R.I. JOURNAL*, 1, 6, 1995, <https://ijtr.nic.in/articles/art28.pdf>

evidence. They showed that if they have a DNA profile, they can use it to create a sample of DNA that matches that profile, without actually obtaining tissue from the person.¹²

3. Role of Scientific test in the investigation process

In the shadowy realm of crime, the human brain is not merely a cunning accomplice. It can also be the ultimate snitch. Over the last two decades, Brain Electrical Oscillation Signature (BEOS) profiling also referred to as brain mapping or brain fingerprinting has emerged as a forensic tool meant to unlock criminal secrets within the grey matter and crack open a case when traditional investigative methods hit a wall.¹³

In the absence of an eyewitness, BEOS alongside psychological profiling, Polygraph, and Narco analysis is of great value in the scientific reconstruction of evidence. During the process, the accused is fitted with a special cap equipped with 32 electrodes placed on the earlobes and various parts of the brain.¹⁴ The individual is then instructed to sit with their eyes closed and silently listen to statements and questions called probes recorded on a computer. An accused is not required to answer questions verbally. Instead, the focus is on retrieving their experiential knowledge related to the crime by detecting electrical activity in the brain.¹⁵ Crime scenes are reconstructed through auditory or visual probes such as 'I took the knife' or 'I cut the body into pieces, designed to trigger memories of the crime in the accused's mind.'¹⁶ When the accused remembers these events, there are fluctuations in the electrical patterns in their brain that serve as cues. Innocent individuals, lacking this memory would not exhibit such brain patterns. It helped corroborate different pieces of information and offered crucial insights into the investigation, which were vital for collecting evidence presented in courts. It was in 2008 that Maharashtra witnessed the first seminal BEOS profiling that provided compelling evidence for two brutal murders and resulted in life sentences for the accused. In the first case, Aditi Sharma, an MBA student, and her lover Pravin Khandelwal were convicted for conspiring to poison Sharma's ex-boyfriend, Udit Bharati with arsenic-laced Prasad. In the second case, Amin Bhoi, a supermarket employee was declared guilty of

¹² redice, <https://redice.tv/news/dna-evidence-can-be-fabricated-scientists-show>, (last visited Nov. 6, 2023).

¹³ Mohua Das & Sharmila Ganesan, *Supra* note 11, at 1120.

¹⁴ Mohua Das & Sharmila Ganesan, *Supra* note 11, at 1120.

¹⁵ Smt. Selvi & Ors. Versus State of Karnataka, Criminal Appeal No. 1267 of 2004

¹⁶ Mohua Das & Sharmila Ganesan, *Supra* note 11, at 1120.

hammering his colleague to death while the latter was asleep.¹⁷

In both cases, BEOS tests indicated the involvement of the accused in the murders and were held admissible in sessions courts. The judgment copy in Sharma's case dedicated 10 pages to brain mapping conducted by the investigators who had read aloud their version of events.¹⁸ While scientific tests do not directly uncover motives or psychological states, skilled forensic psychologists can create probes targeting motives related to revenge, impulsivity, or planning that the technique can verify.¹⁹

4. Legislative provisions regarding confession

Is the statement recorded after doing the Narco analysis test, Lie detection test, and Brain mapping test considered a confession against the accused or not? For this, it is important to know the provisions of confession prescribed in the Indian Evidence Act.

Sections 24 to 30 of the Evidence Act, of 1872, and sections 162 to 164 of, the Criminal Procedure Code deal with various aspects of confessions in different circumstances. These legislative provisions could be divided into various categories and classifications according to circumstances and to whom confessions were made.

Sections 24, 25, and 26 are related to confessions made by accused persons to a police officer in police custody. Extra-judicial confessions by accused made to a police other than a judicial magistrate or the police officer are dealt with by section 29, section 30 of the Evidence Act deals with the considerations of proved confessions and effects thereof in relation to the maker of it and other persons in a joint trial.

Against that the then British legislature, from where we have inherited sections 24 to 30 of the Evidence Act, 1872, and section 164, Criminal Procedure Code, 1973 had ensured every safeguard that all confessions to officers of police were inadmissible though those gentlemen were administering India through the same police.²⁰

The protective devices provided by section 24 and 25 of the Evidence Act makes it sure. It

¹⁷ Mohua Das and Sharmila Ganesan, The Mindhunters: How brain mapping detects memories of crime, msn, (Nov. 27, 2023, 9:29 PM), <https://www.msn.com/en-in/news/other/the-mindhunters-how-brain-mapping-detects-memories-of-crime/ar-AA1cGkOO>

¹⁸ Mohua Das & Sharmila Ganesan, *Supra* note 11, at 1120.

¹⁹ Mohua Das & Sharmila Ganesan, *Supra* note 11, at 1120.

²⁰ State of Punjab vs Gurdeep singh

was held by Apex Court that a confession to police, even if in the presence of a Magistrate had to be declared inadmissible on the ground that the procedure laid down by section 164, Cr.PC was not followed.²¹

5. Types of Confession

5.1 Judicial Confession

5.2 Extra- Judicial Confession

5.1 Judicial Confession

Confessions are of two kinds, judicial and extra-judicial confessions. Judicial confessions are those which are made before a Magistrate or court according to the conditions mentioned in section 164, Cr.P.C.²²

The subject matter of this presentation does not require elaborate discussions about judicial confessions. It would suffice to say that requirements of all provisions of the law in this connection are made to ensure that the judicial confessions may be judged as free from any influence and also voluntary.

5.2 Extra- Judicial Confessions

Extra Judicial confession falls under the ambit of section 29 of the Evidence Act. The provisions of this section prohibit the presence of police officers or the judicial Magistrate at the time of voluntary confessions made by a person to another in a free atmosphere and circumstances as contemplated in sections 24 to 26. There is a wide scope for the investigating agency to plant a make-believe confession.²³

Extra-judicial confessions are made by a person other than a magistrate or a court Besides, importantly an extra-judicial confession would be considered as such when it is not made in judicial proceedings.

As for the reproduction of exact words and their understanding is concerned, Macaulay said: “Words may easily be misunderstood by an honest man. They may easily be misconstrued by

²¹ Zwinglee Ariel v. State of Madhya Pradesh, 1954 Cr LJ 230 (SC)

²² Akankshapandey, etracted Confession under the Indian Evidence Act, 1872, legalserviceindia, (Nov. 27, 2023, 9:29 PM), <https://www.legalserviceindia.com/legal/article-886-retracted-confession-under-the-indian-evidence-act-1872.html>

²³ lawyersgyan, <https://lawyersgyan.com/blog/confessions-under-indian-evidence-act/>, (last visited Nov. 6, 2023).

a naïve. What was spoken metamorphically may be apprehended literally. What was spoken ludicrously may be apprehended seriously. A particle, a tense, a mood, or an emphasis may make the whole difference between guilt and innocence.²⁴

Against that, the Supreme Court observed that it is not an invariable rule that the court should accept actual words but the substance. In that event, court cautioned that the credibility of the witness before whom extra-judicial confession was made, must be ascertained, besides the court must itself satisfy about the voluntariness of the confession.

For judging the credibility of the witness before whom the confession has been said to have been made, there must be a strong reason for the accused and relationship with him so that he may divulge the information of guilt to him. A remote relationship with the accused was not reason enough to believe the confession.²⁵

5.2.1 Principles Incorporated as to Extra Judicial Confession

Lord Cave observed: “If the confession proceeds from remorse and a desire to make reparation for the crime, it is admissible. If it flows from hope or fear, excited by a person in authority it is inadmissible”.²⁶

Section 24, Evidence Act embodies the above-mentioned principle, because if a confession appears to be caused or extracted through inducement, threat, or promise, it would become involuntary as a natural consequence, hence the legislation has made it be excluded from evidence. The intention of the legislature is clear behind this provision to exclude forced or induced confessions. The legislature did not want to take any chances because sometimes confessions may be extorted and put in such a way that it may look genuine where there is a lack of direct evidence. Most of the Lie Detector tests are being conducted in such cases and conditions.

But section 28 of the Evidence Act lays down a principle and condition under which a confession rendered unacceptable by section 24 may become acceptable and relevant. Section 28 provides that confession becomes admissible if made after the impression caused by inducement, threat or promise has been fully removed.

²⁴ History of England by Macaulay, Vol.1, Ch. 5.

²⁵ Tarseem Kumar v. Delhi Admn., 1995 Cr LJ 470.

²⁶ R. v. Thompson, (1893) 2 QB 12.

In this manner section 28 becomes an exception or a proviso to section 24, therefore its proper place would have been just after section 24 in sequencing the numbers of the sections. Rule of exclusion has been incorporated in section 25, Evidence Act, 1872 as only confessions made to police are excluded from accepting them as admissible but other kinds of statements made to police are admissible. Legislature's view that police officers indulged in the malpractice of extorting confessions had forced them to incorporate this exclusion rule so that the danger of admitting such confessions may be avoided. Elsewhere, sections 162 and 163 Cr. P.C. provide almost the same rule that has been incorporated in the procedural law. When during the course of an investigation statement of the accused has been recorded, section 162 Cr. P.C. prohibits its use. Similarly, section 163, Cr. P.C. uses the words "inducement, threat or promise" as has been used in section 24, Evidence Act. Provisions of section 26 of the Evidence Act are being controlled by section 164 Cr.P.C. It was observed that the kind of confessions that are contemplated by section 26, of the Evidence Act are those recorded under section 164, Cr.P.C.²⁷

As mentioned above section 27 of the Evidence Act is an exception to sections 25 and 26 of the same act. Section 27 of, the Evidence Act stipulates that if any fact connected with crime has been discovered from the statement of the accused made to police, then that part of the statement which distinctly relates to the fact discovered may be proved as evidence in a court of law.

Section 27 of the Evidence Act has been founded on the principle that even though the evidence relating to a confessional or simple statement made by a person who is in police custody is tainted and therefore, becomes inadmissible if the truth of the information given by the person in custody is assured by the discovery of the fact, a presumption may be drawn that the discovery of the fact is untainted, therefore that fact is declared provable in so far as it distinctly relates to the fact thereby discovered.

6. Need for General Legislative Provisions

India follows the adversarial and accusatorial system of law which envisages that the state has to gather its evidence and then accuse the suspect, the presumption of innocence remaining at the core of the system. Therefore, it becomes a primary duty of investigating police agencies

²⁷ Nika Ram v. State of Himachal Pradesh, AIR 1972 SC 2077.

to collect evidence to prove guilt against the accused beyond a reasonable doubt in a court of law.

In consequence, the investigating agencies and the prosecution agency have to function in coordination because the purposes of both are the same.

Since the initial contract between the individual and the state, protection of society was given exclusively in the hands of the state as the primary condition of the contract, but the individual had retained some rights, called fundamental rights. In recent decades the state has failed to perform that primary condition of contract because of a plethora of reasons, foremost of them being inefficiency, lack of knowledge, lethargy, corruption, and lack of training to their law enforcing agencies, through which the state is expected to enforce law and order for providing protection to society at large.

A true scientific method for crime detection has to be methodical. The conventional questioning is being put by lawyers in cross-examination with much fewer resources and facilities at their command to know the truth, additionally, the same interrogative methods successfully used by old counterparts of security personnel in the old days succeeded them in larger proportions. But that certainly needs efficiency, intellect, proper training, and honesty of purpose.

7. Confession and Scientific Test

The primary object of putting a suspect/accused to Narco analysis, Brain Fingerprinting, or Polygraphy is to get information from him/her. There is a clear provision contained in sections 24, 25, and 26 and there are also a series of judgments including **Selvi v. State of Karnataka**²⁸ supporting that any confession under coercion or not but not made in a fit and free state of mind are not admissible and acceptable. A confessional statement must be free from any effects of medicine or drugs. The statement would only be acceptable when such a statement is free from any effects of medicine.

For consideration of legal norms to judge a confessional statement or also a piece of information which may lead to discovery as stipulated by section 27, Evidence Act. It is a pre-condition that the following conditions must be fulfilled:

- a) The confessional statement must be voluntary and made in a fit state of mind.
- b) Its value would depend upon the veracity of the person to whom it is made.

²⁸ AIR 2010 SC 1974.

- c) The suspect must be a free person when the statement was made.
- d) The statement was not extracted through inducement, threat, promise, or coercion.
- e) The confessional statement is not contradicted by any other confession or evidence.

8. The value of confession depends on who made

While section 25 Evidence Act, of 1872 completely bars any confession made to the police officer to be proved, section 24 of the Act includes “ person of authority” and section 26 of the act provides that all confessions to anyone except a magistrate are barred from being proved when the accused is in police custody.

Generally, Narcoanalysis, Polygraphy, and Brain Fingerprinting tests are conducted on the accused or suspected persons while they are in police custody remand, as provided under section 167, Cr.P.C. Thus an argument may come that while the said tests were conducted the police personnel were not present in the laboratory. Now the question would arise whether the forensic lab officials may include a “person of authority” or not. This previous plea may exclude the application of section 25 only but provisions of sections 24 and 26 are applicable. There is no doubt that the tests conducted in forensic labs were done when the suspect/accused is in police custody and that would attract provisions of section 26 of the act. Even the presence of a magistrate would not help as conditions mentioned in 164 Cr.P.C, could not be fulfilled. Thus the confession could not be declared as justified as it can not happen to be voluntary.

Respective forensic Experts belonging to different traits, under which scientific tests are conducted, are always inclined to show that the particular trait to which they belong can give one hundred percent correct results, so that their subject of study may be accepted as genuine by the public at large.

As far as “custody” has been used in section 26 and elsewhere in the act is concerned, various courts have held that it does not mean formal custody. Courts have gone to the extent that even where the police are watching some person, the information received from him could be used and it would be stipulated as custody. As soon as any suspected person comes into the hands of the police, he is no longer at liberty. Therefore, he is in the custody of the police. It was held that every indirect control over the movements of suspects by the police amounts to

police custody. There may be police custody without formal arrest.

The limited extent permitted by section 27 of, the Evidence Act is the information received under custody that leads to discovery.

This is the reason why the courts are not inclined to admit evidence collected through scientific tests, though they reluctantly allow these statements to be used for investigation purposes only.

9. Whether results of tests constitute 'Personal Testimony'

Supreme Court after holding that a reasonable limitation on the forensic use of medical expertise is the fact that the testimonial acts such as the results of a psychiatric examination cannot be used as evidence without the subject's informed consent. The court proceeded to examine the operative question of whether the results obtained through the Polygraph and Brain fingerprinting test should be treated as testimonial responses.

The evidence is broadly classified into three categories, namely oral evidence, documentary evidence, and material evidence. It is settled that Article 20(3) and section 161(2) Cr.P.C guards against the compulsory extraction of oral testimony, even at the stage of investigation. Narco analysis tests include substantial reliance on verbal statements of the subject, hence its involuntary administration offends the right against self-incrimination.

The results of Brain Fingerprinting and Polygraph are not in nature of oral or written statements. However, these results are drawn from the measurement of physiological responses. The state argued in the Selvi case that the result does not involve a positive volitional act on the part of the subject who is tested, thus the results should not be treated as testimony. Chief Justice Balakrishnan observed that common sense tells us that some gestures may communicate personal knowledge about a relevant fact, without offering a verbal response and that gestures may expose a person to criminal charges or penalties if they furnish a link in the claim of evidence.

The Bench observed that, though, the process of Polygraph and Brain fingerprinting is not the same as making an oral statement the consequences are the same. Furthermore, these two tests are different from medical examination because there is no analysis of body substances, but the extracted physiological responses, which ultimately become the basis for transmission of

knowledge and again in turn may become the basis for discovery and the prosecution of the subject.

In the end following two clear findings were ruled by the Supreme Court in Selvi's case:-

1. Hence, our conclusion is that the results obtained through the involuntary administration of the impugned tests (i.e. the Narco analysis technique, Polygraphy examination, and the BEAP test come within the scope of testimonial compulsion. Thereby attaching the protective shield of Article 20(3).
2. The results obtained from tests such as polygraph examinations and BEAP tests should also be treated as personal testimony since they are a means for importing personal knowledge about relevant facts.

10. Retracted Confessions

If a person, having once made a confession or purported to have made it, goes back upon it, stating later on either that he did never made a confession or that, though, he had made the confession it was wrong for some reason, is called the Retracted confession.

Questions pertaining to the retraction of confessions are very important for the subject matter of this treatise because confessional statements made during Narcoanalysis are generally retracted during trials on various grounds, including the ground of unconsciousness.

Regarding general retracted confessions, questions had been repeatedly coming before courts. Whether retracted confession destroy the evidentiary value of confession as it had been originally recorded? The Evidence Act is silent on this point, thus the courts have developed the law on their own. In the early days of its inception, the Supreme Court of India observed that a retracted confession may form the legal basis for conviction if the court is satisfied that it was true and was voluntarily made, but simultaneously a warning was also attached in the form of a rider that the court should not base a conviction on such a confession without corroboration unless the court is fully convinced of the absolute truth of the confession.²⁹

For ascertaining the evidentiary value of retracted confessions, the court finds itself confronted with conflicting interests i.e. that of justice which stipulates utmost caution, judging it for its voluntariness when it was originally made besides corroboration and on the

²⁹ Balbir Singh v State of Punjab, AIR 1957 SC 216.

other side remains a social interest. The best course open is to keep a balance.

When a confession is retracted, it becomes inevitable now to ascertain two things: a) whether the confession was actually and factually made and b) if it is established through evidence that the confession was actually made, then the question arises as to its voluntariness. In any case, a retracted confession puts a further shadow of doubt on the reliability of the confession. But where evidence is clear that the confession was made voluntarily, a retraction would automatically lose its restrictive value. In that event, a further quest as to the nature of confession may be made, as a caution, which would depend on case to case. On the other hand, corroboration is also a rule of law that has to be followed as a caution in cases where confessions were retracted.³⁰

It is true that generally courts are not inclined to admit Narco-test reports as such in evidence, but the information given by the suspect may be used in evidence or to support evidence under section 27 of the Evidence Act. But if the results of this test are not admitted in court, it cannot be used to support any other evidence obtained in the course of routine investigation.

CONCLUSION:

A civilized state, in fact, postulates that no member of society should be subjected to custodial cruelty. A perverse desire is a human trait, for instance when a person is convinced that no retaliation would come from the person on whom some kind of cruelty is inflicted that perverse desire enhances, and then one wants to show superiority and physical power to the one who is overpowered. It would be extremely hypocritical to ignore any kind of cruelty and torture inflicted on a person under custody.³¹

Scientific tests are considered alternatives to police custody. An accused can manipulate many things and not disclose real facts because he is also feared that his statement can be used against him and he can be convicted also but when the person is undergoing scientific tests then he is not in a state of mind to manipulate things. He is giving his statement voluntarily without any coercion or pressure. He is already told by his lawyer or judges that his statement is not used against him. This is only for the investigation purposes.

³⁰ Pyarelal Bhargav v. State, 1963 (2) Cr LJ 178.

³¹ ohchr, <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet4rev.1en.pdf>, (last visited Nov. 6, 2023).

In the recent perplexing case of Saraswati Vaidya, the 36-year-old Mira Road resident whose dismembered body parts were discovered after being allegedly butchered and boiled by her 56-year-old live-in partner, Manoj Sane who maintained that Vaidya had poisoned herself, on June 7, 2023, brain mapping test might be the last recourse for baffled authorities to determine whether it was murder or suicide. In the end, I would say that scientific tests are very helpful in solving the case.³²



³² ojp, <https://www.ojp.gov/pdffiles1/nij/grants/213004.pdf>, (last visited Nov. 6, 2023).