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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated 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

# **A STUDY ON ROLE OF POLICE OFFICER IN CONFESSION UNDER INDIAN EVIDENCE ACT, 1872.**

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## **ABSTRACT**

This paper reviews the law relating to confessions to the police officer, as prevalent in India and the United Kingdom. It shows the role of an officer in confession and its evidentiary value. It argues for changing the law as it stands today in India, by making confessions admissible in law by providing certain safeguards. Section 25 of the Evidence Act, 1872 is the law dealing with Confessions made by an accused to the police officer and section 26 confession during police custody. The law relating to the Confessions is to be found generally in Sections 24 to 30 of the Evidence Act and Sections 162 to 164 of the Code of Criminal Procedure, 1998; Sections 17 to 31 of the Evidence Act are admissions. Aim of the study is to analyse the role of police officer in confession and demand for the change of law in strands of public opinion about the confession made to police officer. The current study is based on empirical research. It consists of the scientific frame of research. It began with the finding of research problems based on the review of literature. Convenience sampling method (Non-probability sampling) is used. The sample is 200. My main findings are 42.38% of undergraduates feel that confession made to a police officer is inadmissible; they may learn it through social media platforms, newspapers, parents etc. the people from age 20-31 years and 31-40 years responded more with yes responses. Public sector employees responded more than others. Students and self-employed are agreed that the confession made to police officer is invalid while public sector employees are not aware of the same due to practicality of administration. My opinion is that the confession to police officer can be taken as collaborative evidence instead of making it invalid.

**KEYWORDS:** - Confession, Admission, Police officer, Custody, Evidence.

## INTRODUCTION

This paper reviews the law relating to confessions to the police officer, as prevalent in India and the United Kingdom. It shows the role of an officer in confession and its evidentiary value. It argues for changing the law as it stands today in India, by making confessions admissible in law by providing certain safeguards. Section 25 of the Evidence Act, 1872 is the law dealing with Confessions made by an accused to the police officer and section 26 confession during police custody. The law relating to the Confessions is to be found generally in Sections 24 to 30 of the Evidence Act and Sections 162 to 164 of the Code of Criminal Procedure, 1998; Sections 17 to 31 of the Evidence are admissions. Section 25 clearly provides that confession made to a police officer cannot be proved against the accused because to prevent the torture of the accused at the hands of police in order to extract confessions. It was stated that Confession obtained by torture and by using third degree methods would be involuntary. Sections 164, 342 and 364 of the Criminal Procedure Code with regard to the confessions and statements of accused persons should be carefully studied. Section 164 deals with the recording of statements and confessions at any stage before the commencement of an enquiry or trial. Section 342 deals with the examination of accused persons during the course of the enquiry or trial. Section 342-A now, enables the accused to appear as a defence witness during the trial and to give evidence on oath in disproof of the charges made against him or a co-accused. Section 364 prescribes the manner in which the examination of an accused person is to be recorded. Some of the case laws that were referred to are: Statements made before investigation: As regards statements made before investigation, as in case of *F.I.R.*, such statements, if confessional in nature, will be hit by Section 25 and if they are non-confessional in nature and only an admission of certain facts having a bearing on question to be determined by the court, they will not be hit by Section 25 and will be admissible in court. [*Aghnoo Nagesia v. State of Bihar*, AIR 1966 SC 119]. Statements made before accusation: It is not necessary that at the time of making confession, the maker must be an accused. But he must be an accused at the time when such confession is sought to be proved against him. Thus even if an accusation is subsequent to the statement, the statement cannot be proved. [*Bheru Singh v. State of Rajasthan*, (1994) 2 SCC 467]. Position in English law does not discredit the statements made to the police officers. If the Judge thinks that the statement is voluntary, free, fair and inspires confidence then the court may admit it. **Aim of the study is to analyse the role of police officers in confession and demand for the change of law in strands of public opinion about the confession made to police officer.**



## OBJECTIVES

- To analyse the role of police officer in a confession.
- To measure the contradiction of section 164 & 342 A of CRPC in confession .
- To know the evidentiary value of confession to police officer .
- To know the public opinion on confession to the police officer.

## REVIEW OF LITERATURE

(**Janavi.h, Divya Deshpande 2021**) This paper discusses the wrongful convictions made with the relevance of false confession made. It also discusses whether the confession was proven to the police or not. This paper discusses the cases related to the topic. It also studies the concept of wrongful confession under the evidence law, 1872. Also studies about the accused confession made under police custody and how the evidence are produced against him. (Janavi 2021) On a final note, it is appropriate to state that the importance of confession cannot be overstated for the purposes of a criminal trial. Admission under the Criminal Procedure Code of 1973 has a number of distinct characteristics. It has a significant incentive in the Criminal Justice System, and in this way, the sacredness of the validity of confessionary explanations can be maintained, and the consistent process of developing new mechanisms and components for recalling confessionary evidence can be modified in the standard arrangements of current procedural laws and the entire evidential law in the country. (**The Influence Mental Illness has on False Confession 2021**) paper critically analyzes ten different studies that all relate to either mental illness, false confessions, or both. There have been many studies done on how young age and intense interrogations impact false confessions, however, this literature review aims to gather evidence that focuses on mental illness being a major influencer on false confessions. (false confession ) Another point this literature review focuses on is the fact that people are unwilling to help those who have falsely confessed to a crime reintegrate back into society. The majority of the methodology examined are self- reported. After analyzing each study in depth, this literature review concludes that a correlation between mental illness and false confession is present, however, researcher methodologies must be altered in order to come to a more concrete conclusion. (**Arindam Shir 2020**) confession is crucial in the pursuit of a criminal trial, which is built on the foundation of truth and accuracy. paper has been designed to study the right against self-incrimination with such neuroscientific evidence and other influences enumerated under section 29 of the Evidence Act. (Arindam) A critique has been established over such evidence and attempted to understand the

appropriate way to validate such a cause. **(Mr. Ashish Kumar Kulshreshtha 2019)** Police has important role in the criminal justice process in India. The main objectives of the Police are to provide immediate help to the victim, to take preventive actions, to arrest the accused, to investigate the crime fairly, to enforce and to maintain law and order situation. The Police investigation is the backbone of the criminal justice process, we cannot expect to be fair justice without the fair and genuine investigation by Police.(Ashish) But after the Nirbhaya gang rape case and several other cases of heinous crime, the Government and recently the Supreme Court of India have felt the need to reform the Police accordingly to the recent amendments in Criminal law. This critical study has an assertion and provided some suggestions to the knowledge of intricacies of Police investigation, role of Police in criminal justice system of India and need to reform the Police system in India. **(Sri G.Vallabha Naidu2019 )** Examination of accused u/s.161 CrPC is popularly known as interrogation. The object of examination of witness u/s.161 CrPC is to produce the evidence before the court at the time of trial.( Vallabha )Further these statements are useful for the court for framing the charge. Before trial commences, copies of these statements recorded by the police should be furnished to the accused free of cost. Conclusion is it is duty of all judicial officers to pay special attention to the provisions of section 161, 164 of Code with reference to Section 145 of Evidence Act, so as to enable them to have clear notions about all relevant provisions in this regard. **(Shivashankar.B.S, Arya R 2018)** exception to the hearsay rule that allows testimony concerning someone else's confession to be admitted if the statement had a great enough tendency "to expose the declarant to civil or criminal liability". (arya 2018)paper aims to bring out that what is meant by confession statement and in what conditions the confession statement will be given , what are all the forms of confession statement and the distinction between the confession statement and admissibility statement.The methodology used in this study is Doctrinal. It is based on the information and data collected from secondary source. change in the Evidence Act is necessary so as to invigorate the trust and faith of the people of India in the Judiciary that they will be provided imparted speedy justice to the wrongs done to them by any person.

**(Amelia C. Hritz 2017)** Police often find themselves navigating difficult moral situations.They may find it necessary to tell lies despite moral reservations because lies can be a useful tool in controlling situations and avoiding the use of force.Police may also justify lies when they lead to a desirable outcome. (Hritz) When police use lies to obtain evidence, police may justify the harm caused by lies as outweighed by the good from catching wrongdoers. **(Smt. B. Sobha Kumari, Senior Civil Judge,**

**Rajam 2017)** Statement in its dictionary meaning is the act of stating or reciting. The term statement is not defined anywhere in the Act. However, (Sobha) it has got whole connotations. Generally, statements are recorded in criminal procedure code in section 161 and 162. under section 164 of Crpc the confession statements of accused will be recorded. Section 161 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') titled "Examination of witnesses by police" provides for oral examination of a person by any investigating officer when such person is supposed to be acquainted with the facts and circumstances of the case. (**Sara C. Appleby, Lisa E. Haselband Saul M. Kassin 2011**) Our analysis indicated that most false confessions contained references to specific visual and auditory details concerning the crime and victim(s) as well as references to the confessor's thoughts, feelings, and motives during and after committing the crime. (Kassin) In a second study, mock jurors read confessions that were varied in terms of the presence of crime details, motive statements, and apologies, to determine the impact of these common aspects of confessions on a mock jury. (**Dianna Brooks 2014**) study modelled self-reported confessions and cooperation with police interrogators. Incarcerated men (N = 100) were interviewed about their most recent police interrogation. A logistic regression analysis was performed to predict confession decision using nine predictors: Humanitarian Style, (brooks) Legal Advice, Interrogation Length, Perception of Evidence, Age, Previous Conviction, Number of Convictions, Offence Seriousness, and Attitude Toward Police. (**Abhinav Sekhri 2014**) It has been regularly examined by courts for interpretative and clarificatory purposes. Thus, a vast body of judicial dicta today exists on how to construe this provision. Sifting through this, one notices persistent confusion with respect to a precondition for applying this exclusionary rule, i.e., (Abhinav) who is a police officer. This paper undertakes a systematic review of decisions to trace changing judicial techniques for determining who a police officer is for the purposes of § 25. This enables a holistic critique of the current position of the Supreme Court on the matter which, it is argued, thwarts the legislative object behind the provision and is bad in law. It is concluded that an unequivocal statement of legislative intent through an amendment is the only solution to this. (**Saul M. Kassin 2010**) Confession evidence is powerful but flawed, often in non intuitive ways. Contradicting widely held beliefs, research reviewed in this article suggests the following: Despite special training in how to conduct interviews, police cannot distinguish better than the layperson whether suspects are lying or telling the truth. Suspects in custody routinely waive their self-protective rights to silence and to counsel—especially if they are innocent. (Saul) Certain legal but deceptive interrogation tactics increase the risk that innocents will confess to crimes they did not commit. Judges and juries are easily fooled, unable to distinguish between true and false confessions. Appellate courts

cannot be expected to reasonably determine whether the error of admitting a coerced confession at trial was harmless or prejudicial. **(William C. Thompson 2009)** This issue of Law & Human Behavior contains a special article, "Police-Induced Confessions: Risk Factors and Recommendations," by Saul M. Kassin, Steven A. Drizin, Thomas Grisso, Gisli H. Gudjonsson, Richard A. Leo, and Allison D. (William) Redlich. This article is a Scientific Review Paper of the American Psychology-Law Society (AP-LS), Division 41 of the American Psychological Association. It is only the second such paper to be authorized and approved by AP-LS in its 42 year history. **(Saul M. Kassin, Steven A. Drizin Thomas Grisso 2009)** Recent DNA exonerations have shed light on the problem that people sometimes confess to crimes they did not commit. (Saul) Drawing on police practices, laws concerning the admissibility of confession evidence, core principles of psychology, and forensic studies involving multiple methodologies, this White Paper summarizes what is known about police-induced confessions. article concludes with a strong recommendation for the mandatory electronic recording of interrogations and considers other possibilities for the reform of interrogation practices and the protection of vulnerable suspect populations. **(David Anthony Brooke 2008)** thesis considers the law on confessions, illegally/improperly obtained evidence and entrapment under the Police and Criminal Evidence Act 1984. There is a detailed discussion of the case-law and the principles which underlie that case-law as well as a detailed discussion of the principles and policies which underlie the relevant statutory and common law provisions. (Anthony) There is also some discussion of some of the psychological aspects of false confessions and interrogation. There is some historical discussion of how the law has approached confessions, illegally/improperly obtained evidence and entrapment before the enactment of the Police and Criminal Evidence Act 1984. **(United nation publication 2007)** Human Rights Standards International human rights law is binding on all States and their agents, including law enforcement officials. Human Rights is a legitimate subject for international law and international scrutiny. (United nation publications) Law enforcement officials are obliged to know, and to apply, international standards for human rights. Law enforcement officials shall at all times fulfil the duty imposed on them by law, by serving the communi- ty and by protecting all persons against illegal acts, con- sistent with the high degree of responsibility required by their profession..p**(Marvin Salman and w.smith 2007)** administrators of the largest American municipal police departments were surveyed regarding interrogation law and practice. Major findings include: (1) Most big city police administrators do not wish to overturn Miranda; officers in their departments complied with Miranda rules. Administrators agreed with the results of the majority opinions in both U.S. v. Patane and Missouri v. Siebert. (2) Administrators disagreed with the practice of deliberately

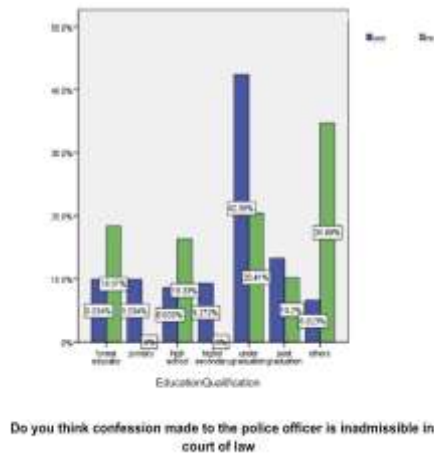
evading Miranda rules known as interrogation "outside Miranda." (3) Three-quarters of the respondents disagreed with the proposition that aggressive psychological interrogation causes false confessions. (Salman) (4) Three-fifths of big city police administrators favored the videotaping of interrogations sessions. (5) Disciplining officers for Miranda. (**Aili Malm Nahanni Pollard 2005**) Understanding current costs of police services requires an understanding of past costs and past demands for police services.. (Nahanni) If overall police members' time to handle a call were to decrease, then police capacity would increase and the number of calls for police service could increase with the expenditures remaining the same. If the time it takes to handle a case were to increase then police capacity would decrease and fewer cases could be handled with the same number of police. (**Saul M. Kassin, Christian A. Meissner, and Rebecca J. Norwick 2005**) College students and police investigators watched or listened to 10 prison inmates confessing to crimes. (Rebecca) Half the confessions were true accounts; half were false—concocted for the study. Consistent with much recent research, students were generally more accurate than police, and accuracy rates were higher among those presented with audio-taped than videotaped confessions. In addition, investigators were significantly more confident in their judgments and also prone to judge confessors guilty. To determine if police accuracy would increase if this guilty response bias were neutralized, participants in a second experiment were specifically informed that half the confessions were true and half were false (**Thomas Sullivan 2004**) Co-Chair of Illinois Governor George H. Ryan's Commission on Capital Punishment, I led the subcommittee charged with making recommendations to the full Commission about police investigatory practices. (Thomas) We found a major problem concerning disputes as to what occurred when suspects under arrest are brought to a police station for questioning.

## **METHODOLOGY**

The current study is based on empirical research. It consists of the scientific frame of research. It began with the finding of research problems based on the review of literature. The research design is exploratory and experimental. It explored the problem tested with hypotheses and provided the solution from analysis. Convenience sampling method is used (Non-probability sampling). The sample is 200. The data is collected through the primary and secondary source Anova. Questionnaire is used as the primary data collection and the article, journals, reports, newsletter are considered as the secondary sources. The analysis is done by using the SPSS 21 version.

# ANALYSIS AND DISCUSSION

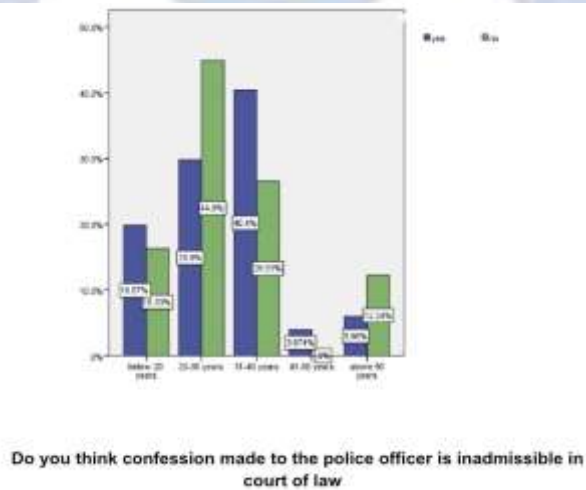
**FIGURE 1:-**



**LEGEND :-**

Figure shows the distribution of educational qualifications in determining the public agreeability towards confession made to the police officer is inadmissible in court of law .

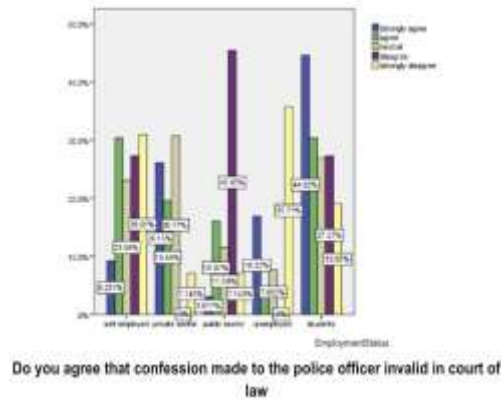
**FIGURE 2 :-**



**LEGEND :-**

Figure shows the distribution of age in determining the public agreeability towards confession made to the police officer is inadmissible in court of law.

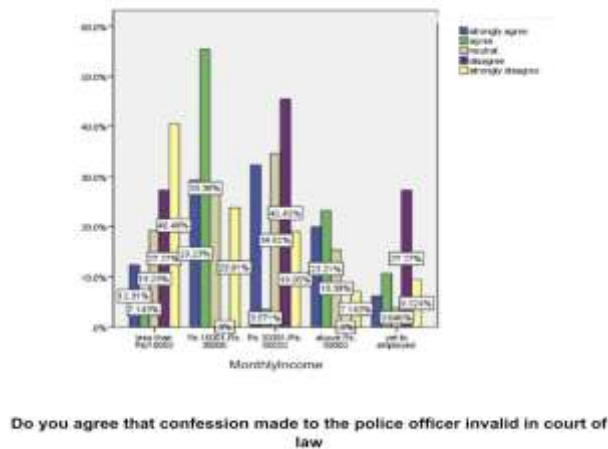
**FIGURE 3 :-**



**LEGEND :-**

Figure 3 shows the distribution of occupation in determining the public agreeability towards confession made to the police officer is inadmissible in court of law .

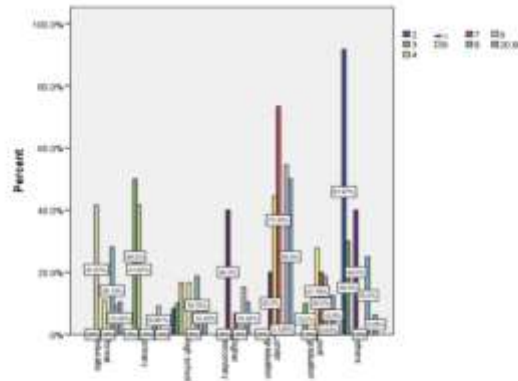
**FIGURE 4 :-**



**LEGEND :-**

Figure 4 shows the distribution of income status in determining the public agreeability towards confession made to the police officer is inadmissible in court of law .

**FIGURE 5 :-**

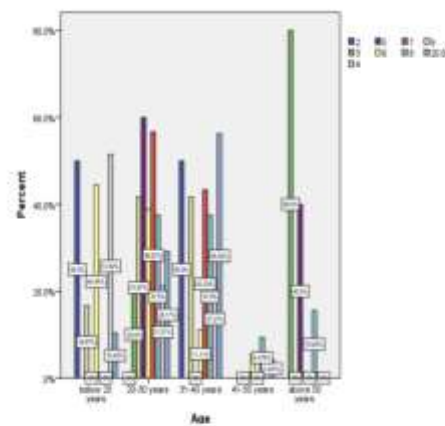


Rate the public satisfaction towards the steps taken by the government from inflicting any harm to the acquire statement from the accused person

**LEGEND :-**

Figure 5 shows the distribution of educational qualifications in determining the public satisfaction towards the steps taken by the government from inflicting any harm to the acquire statement from the accused person.

**FIGURE 6 :-**



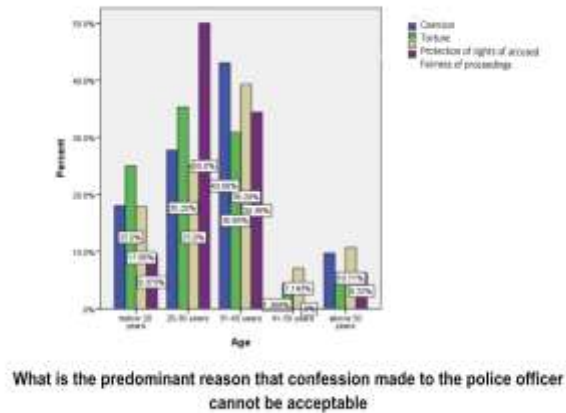
Rate the public satisfaction towards the steps taken by the government from inflicting any harm to the acquire statement from the accused person

**LEGEND :-**

Figure 6 shows the distribution of age in determining the public satisfaction towards the steps taken by the government from inflicting any harm to the acquire statement from the accused person.



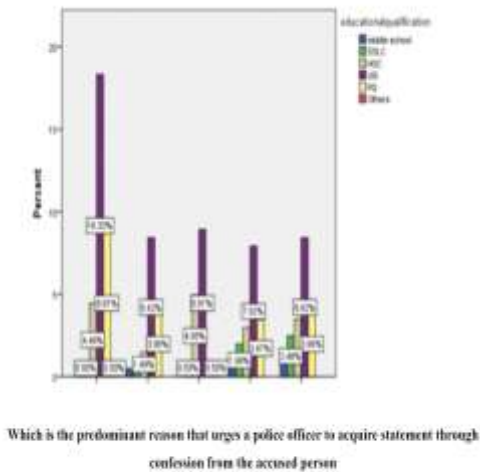
**FIGURE 7 :-**



**LEGEND :-**

Figure 7 shows the distribution of age in determining the public satisfaction on the predominant reason that confession made to the police officer cannot be acceptable.

**FIGURE 8 :-**



**LEGEND :-**

Figure 8 shows the distribution of educational qualifications in determining the public satisfaction on predominant reason that confession made to the police officer cannot be acceptable.

## **RESULTS:-**

In figure 1 , 42.38% of undergraduates feel that confession made to a police officer is inadmissible; they may learn it through social media platforms, newspapers, parents etc. In figure 2, age is compared with dependent variables the people from age 20-31 years and 31-40 years responded more with yes responses. In figure 3, Public sector employees responded more than others. students and self employed are agreed with the confession made to police officer is invalid while public sector employees are not aware of the same due to practicality of administration. In figure 4 , People getting Rs.10001-30000 income responded more than others and they agreed that the confession made by the police officer is invalid. In figure 5, undergraduates responded more than others. undergraduate rated 7 for steps taken by the government from inflicting any harm to the acquire statement from the accused person. In figure 6, people age 20-30 years rated 7 for steps taken by the government from inflicting any harm to the acquire statement from the accused person. In figure 7, People aged 20-30 years responded high and stated fairness of proceedings is the predominant reason for confession made to the police officer. People above 50 years are responded low and stated protection of rights of accused is the predominant reason. In figure 8, People above 50 years are responded low and stated to facilitate investigation is the predominant reason.

## **DISCUSSION :-**

In figure 1, the people are aware that confession made to the police officer is inadmissible in court of law , here the responses of undergraduates is high and they responded yes to the dependent variable . 42.38% of undergraduates feel that confession made to a police officer is inadmissible; they may learn it through social media platforms, newspapers, parents etc. In figure 2 the people are aware that confession made to a police officer is inadmissible in court of law . Here age is compared with dependent variables the people from age 20-31 years and 31-40 years responded more with yes responses. The youngsters have clarity about laws and its loops. In figure 3, the people agreed that confession made to the police officer is invalid in court of law . Here the compared dependent variable is occupation. Public sector employees responded more than others. students and self employed are agreed with the confession made to police officer is invalid while public sector employees are not aware of the same due to practicality of administration. In figure 4, the people agreed that confession made to the police officer is invalid in court of law . Here the compared dependent variable is income status . People getting Rs.10001-30000 income responded more than others and they agreed that the confession made by the police officer is invalid. People getting Rs.30001-50000 are not aware of the

same. In figure 5, the people are satisfied with steps taken by the government from inflicting any harm to the acquire statement from the accused person. Undergraduate are responded more than others. Undergraduate rated 7 for steps taken by the government from inflicting any harm to the acquire statement from the accused person. In figure 6, the people are satisfied with steps taken by the government from inflicting any harm to the acquire statement from the accused person. People aged 20-30 years are responded more than others. People age 20-30 years rated 7 for steps taken by the government from inflicting any harm to the acquire statement from the accused person. Above 50 rated 3 and not satisfied with the same. In figure 7, the people think fairness of proceedings is the predominant reason that confession made to the police officer cannot be acceptable. People aged 20-30 years responded high and stated fairness of proceedings is the predominant reason for confession made to the police officer. People above 50 years are responded low and stated protection of rights of accused is the predominant reason. In figure 8, the people think fast closure of case is the predominant reason that urges a police officer to acquire statement through confession from the accused person. Undergraduate responded high and stated fast closure of case is the predominant reason that urges a police officer to acquire statement through confession from the accused person. People above 50 years are responded low and stated to facilitate investigation is the predominant reason.

## **CONCLUSION**

Confession is a kind of admission, and established in Sections 24 to 30. A confession is proof against the person who makes it, except its admissibility is excluded with the aid of using a few provisions of law. My main findings are 42.38% of undergraduates feel that confession made to a police officer is inadmissible; they may learn it through social media platforms, newspapers, parents etc. The people from age 20-31 years and 31-40 years responded more with yes responses. Public sector employees responded more than others. Students and self employed are agreed that the confession made to police officer is invalid while public sector employees are not aware of the same due to practicality of administration. People getting Rs.10001-30000 income responded more than others and they agreed that the confession made by the police officer is invalid. Undergraduates responded more than others. Undergraduate rated 7 for steps taken by the government from inflicting any harm to the acquire statement from the accused person. My opinion is that the confession to police officer can be take as collaborative evidence instead of making it invalid, it is in contradiction with section 164, 342 A of CRPC.

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