

Evaluation of the Statements and Confessions from the Point of View of Forensic Linguistics

N. Vijayan, M.A. (Criminology & Police Administration), M.A. (Linguistics)

=====

Abstract

Forensic linguistics applies linguistic knowledge, methods and insights to the forensic context of law, language, crime investigation, trial, and judicial procedure. There is an urgent need in India, a multilingual country, for that matter any country, to give more importance and priority to Forensic Linguistics since crime rates are shooting up. The role of language to solve the cases quickly should be given precedence, for which Forensic Linguistics only can serve the purpose (Vijayan, 2015). This paper presents aspects of forensic linguistics used by law enforcing and criminal investigation agencies in India. Linguistic features of false confessions, witness statements, identifying the genuineness of statements, and other related features are described and discussed in this paper. Recorded case histories are used to discuss forensic linguistic aspects.

Key word: Forensic linguistics, false witness, false and voluntary confessions, assessment of genuineness of statements, case histories.

Forensic Linguistics

Forensic Linguistics is a branch of applied linguistics which uses language as evidence. It is the application of linguistic knowledge, methods and insights to the forensic context of law, language, crime investigation, trial, and judicial procedure.

Just like the Forensic science got recognition in the area of legal processes and helps in solving problems related to blood, weapon, clinical testing of liquids and related things, now the

language used by the accused, witnesses, victims, etc., gets impetus in giving evidences for legal processes.

Forensic Linguistics can help the Police Department as well as the Judicial to find out the culprits. With the increase in new technology used by culprits, suspects, forensic linguistics can contribute to the field to a greater extent. The confessions and statements given in the Police station or Court may lead to change in the course of trial. Prompted confessions and dictated statements by prosecution witnesses, defense witnesses, the accused, etc., have turned the proceedings in the Court of law.

There is an urgent need in India, a multilingual country, for that matter any country, to give more importance and priority to Forensic Linguistics since crime rates are shooting up. The role of language to solve the cases quickly should be given precedence, for which Forensic Linguistics only can serve the purpose (Vijayan, 2015).

Take for example, the confession given by a culprit. But the term confession is nowhere defined in the Evidence Act of India. All the provisions relating to confessions occur under the heading of admission, which is applicable to confession also. Section 17 of Indian Evidence Act (IEA) defines ‘admission’ or here ‘confession’ as “a statement oral or documentary which suggests any inference to any fact in issue or relevant fact”. A confession can be defined as an admission made at any time by a person charged with the crime stating or suggesting an inference that he committed the crime.

But in India, as per the Article 20(3) of Constitution of India ‘no person accused of any offence shall be compelled to be a witness against himself.’ There are possibilities that, when a person is compelled to confess or give a statement about a crime the result may be a false one.

False Confession

A false confession is an admission of guilt in a crime in which the confessor is not responsible for the crime. False confession can be induced through coercion or by the mental disorder or incompetency of the accused.

There are cases where innocent individuals have confessed to crimes they did not commit. Innocent defendants have made incriminating statements, confessed or pleaded guilty. Multiple factors can contribute to false confessions, including those affecting the mental illness, intoxication, and age, in other words the psychology of a suspect and the use of coercive interrogation techniques, such as threats, physical handling or promises of leniency. False confessions usually follow a suspect's decision during an interrogation that confessing is somehow more beneficial to him than maintaining his innocence.

Voluntary False Confessions

Voluntary false confessions are those that are given free of any force, that is, without police prompting. Sometimes they may be sacrificial, to divert attention from the actual person who committed the crime as in the cases taken for analysis.

1. Compliant false confessions are given to escape a stressful situation, avoid punishment, or gain a promised or implied reward.
2. Internalized false confessions are those in which the person genuinely believes that they have committed the crime, as a result of highly suggestive interrogation techniques.

False confessions greatly undermine the due process rights of the individual who has confessed. 'Our distrust for reliance on confessions is due, in part, to their decisive impact upon the adversarial process. The introduction of a confession makes the other aspects of a trial in court superfluous, and the real trial, for all practical purposes, occurs when the confession is obtained' (Justice Brennan noted in his dissent in the case of Colorado Vs, Connelly 49 US 157, 1986).

Confessions and witness statements are to be analysed for their legitimacy.

How to Evaluate the Genuineness of Statements

At this point of discussion this paper suggests a mechanism to evaluate the genuineness of such statements.

A witness statement is a document recording the evidence of a person, which is signed by that person to confirm that the contents of the statement are true. A statement should record what the witness saw, heard or felt. It is considered that if the witness has seen the crime, he/she becomes an eye witness; if he/she has heard about the crime, he/she becomes an ear witness.

The Statements of both prosecution witnesses (PWs) and Defense witnesses (DWs) are to be evaluated (Vijayan, 2015). As defined earlier a witness statement is a formal document containing his/her own account of the facts relating to issues arising in a crime, for example a murder case.

The features such as their legality, validity, reliability, authenticity and the truthfulness are to be assessed for which a system called Statement Worthiness Evaluation System (SWES) is proposed, here, in this paper.

Case Studies

The analysis has taken up the following 9 cases to substantiate the SWES.

1. Janakiyamma murder case: (Case No. 146/05)
Accused (1) Mr. Murugan and (2) Mr.Shankar
2. Vijayalakshmi murder Case: Accused Mr. Natarajan
3. Tractor accident leading to murder (Case No.341/1998)
Deceased – Mr. Kannan and Accused Mr. R.Vijayakumaran Nair
4. Sheela murder case: (Case No. 297/2002)

- Accused Mr. Satish Kumar and another two
5. Attempt to murder of Mr. Muthaiyan (Case No.102/2001).
Accused (1) Mr. Thangaiyan, (2) Mr. R. Justin, (3) Mr. R.Sekar and
(4) Mr. R.Satish kumar
 7. Attempt to murder of the H.M., Mr. Sasidharan Nayar (Case No. 11/2006).
Accused Mr.R. Vikraman, Mr. G.Satish kumar and Mr. S. Dilip
 8. Rape Case of Miss Sophia: (Case No. 400/2008)
Accused Mr. Rattina Das
 9. Bribe case on Mr. Ganapathiya Pillai (Case No. 6/2004)
Complaint filed by Mr. S. Mathusoodhanaperumal.

The SWES is proposed here as an application to find out how much merit the statements have in the legal process.

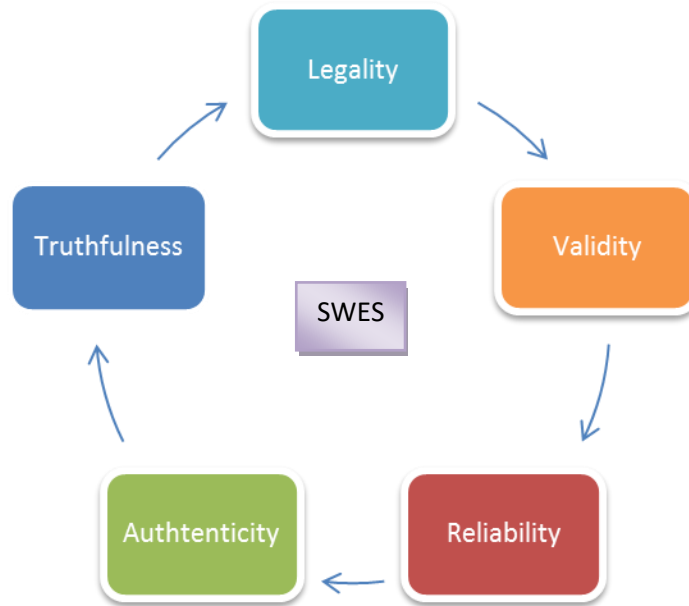
Principles Adopted for the Assessment Using SWES

The following principles are projected in the process of assessment using SWES.

1. The Principle of legality of the statements.
2. The Principle of validity of the statements.
3. The Principle of reliability of these documents.
4. The Principle of authenticity of the documents.
5. The Principle of truthfulness in documents.

Statement Worthiness Evaluation System

Besides, these principles the analysis of these documents can help in finding out, for example, the region/community to which the accused or the witnesses belong(s) to from the dialect used by him/them.



Statement Worthiness Evaluation System

The Principle of Legality

The principle of legality is captured in the Latin phrase ‘*nullum crimen sine lege, nulla poena sine lege*,’ which may be translated as ‘no crime or punishment without law.’ In spirit, the principle of legality means that criminal liability and punishment should be based only upon a prior enactment of a prohibition that is expressed with adequate precision and clarity. Legality can be, further, defined as an act, agreement, or contract that is consistent to the law or state of being lawful or unlawful in a given jurisdiction. According to Webster’s New World College Dictionary (2006) the definition of legality is “1: attachment to or observance of law and 2: the quality or state of being legal. Legality checks for if certain behaviour whether it is according to law or not.”

In criminal law, the principle of legality is designed to guarantee the primacy of the law in criminal procedure, so that neither the prosecution nor defendants are exposed to arbitrary bias.

The principle of legality assures that no defendant may be punished arbitrarily or retroactively by the court. This means that a person cannot be convicted of a crime that has never been publicly announced or tried in the court of law. It requires judges to always lean in favour of the defendant when they interpret statutes, and forbids pronouncement of guilt without a clear and reasonable justification of the sentence.

Ignorance of a law may mitigate severity of guilt that is, 'knowingly' committing a crime to 'negligently' committing a crime, but criminal law holds that ignorance never equals innocence. The principle of legality holds that it is not the defendant's personal knowledge that determines what he can and cannot do, but the law of the land can.

Example 1

Case No. 7. Attempt to murder Sasidharan Nayar

The Head Master of the school, Sasidharan Nayar was attacked by the accused for not giving job, that is, for terminating from services for illegal activities and was not reinstated. After the trial, the judgment was pronounced and the accused were acquitted. The prosecution was blamed for its failure in keeping all the points of irrelevance intact. The judgment itself gives the legality and validity of the statements.

The facts that there were no consistencies in the statements regarding the time of admission to the hospital, the place of occurrence of the crime, the eye witnesses produced as PW, etc., have contributed to the acquittal of the accused.

The judgment, after evaluating the legality, exemplifies as follows: **Any thing missingher? Where is the exemplification?**

Example 2

.....enavē campavattirku pin a.cā.1 neraṭiyāka arumanai kāval nilaiyam cenṛuḷḷār enpatum atan piṛaku aṅkiruntu kāval nilaiya memōvuṭan avarai a.cā.1 -in makan Pranesh arumanai maruttuva maṅikku aḷaittu cenṛuḷḷār enpatum teḷivākiratu.

.....So it is clear that the PW1 has gone to the police station directly and after that getting the memo from the police station his son Pranesh has taken him to the Arumanai Hospital.’

...enavē, a.cā.1 -kku avar conna nēratil conna vitattil kāyaṅkaḷ ēṛpaṭṭirukkumō enpatu cantēkattai ēṛpaṭṭutukiratu enṛa etirikaḷ tarappu vātam ēṛkumpaṭiyāka amaintiruppatākavē innītimaṅgam karutukiratu.

‘This court opines and believes the defense argument that the injuries made on PW 1 at the said time and said manner make it more doubtful was acceptable.’

The wife of the victim, Sasidharan Nayar also stated that only she admitted him in the hospital, contrary to the fact that her son admitted him. The time, location and in the way complaint has been expressed in the statement as micro evaluation has failed in the court. It was proved beyond doubt that it was not a true case and was done to punish somebody who was not involved in the case.

Example 3

inta vaḷakkilum, a.cā.ā.1 pukār vākkumūlattiḷ campavattin pōtu a.cā.2 uṭan irunatāka atil kūṛappaṭavillai. enavē, avar campavattin pōtu kūṭaviruntatāka kūṛappaṭṭu, campavattai neril pārta cāṭciyāna avar aḷittuḷḷa cāṭciyam nampattakunta vitattil illai.

‘Further, in the complaint lodged, there was no mention about PW 2’s presence at the time of the incident. So, the statement he gave as he was along with while the incident had happened and his witness as he had seen the incident in person are not trustworthy.’

It is also true that PW2 was not in the location as claimed by the prosecution; that being the case how would the court believe his statement? The truth came out in the cross examination.

Example 4

mēlum, campavam naṭantatāka kūrappaṭum iṭam parri aracu tarappil kūrappaṭum pōtu, mutal takaval aṛikkaiyil kalluppālam āciriya payirci paḷḷiyin mun pakkam uḷḷa varāṅṅāvil niṛkum pōtu a.cā.1 tākkappaṭṭatāka kūrappaṭṭuḷḷatu. ānāl kurrāp pattirikkaiyil āciriya payirci paḷḷi kaṭṭiṭattin vaṭakku kaṭaici aṛaiyin mun varāṅṅāvil campavam naṭantatāka kūrappaṭṭuḷḷatu.

‘In addition to that while the prosecution mentioning about the place of occurrence of the incident, in the FIR it was mentioned that the PW 1 was attacked when he was standing in the front verandah of the Kalluppalam Teacher Training School. But in the charge sheet it was mentioned that the incident occurred when the PW was standing in the verandah of the last room in the north side of the end side of the building of the Teacher Training School.’

As said earlier, the location of the crime is also very important to establish the legality of the case. Here the prosecution mentioned one place in the FIR and another in the charge sheet and the statements of the PWs was deviant from the location. That point was well observed and the judgment was pronounced acquitting the accused persons.

The evaluation of the total case could be observed as a scholarly legal way in the judgment as in

Example 5

enavē mēṛkaṅṭa kāraṅaṅkaḷināl aracu tarappil kūṛappaṭuvatu pōl kūṛappaṭum nāḷil, kūṛappaṭum nēratil etirikaḷāl a.cā.1 -kku kāyam ēṛpaṭuttappaṭṭatu enpatu takunta cāṭciyaṅkaḷ marrum āvaṅaṅkaḷ mūlam cantēkattirkuṇṭaminṛi nirūpikkappaṭa villai..

‘So, as per the afore said reasons that as mentioned in the charge sheet, the incident happened on the said day at the said time and the injuries were made by the accused were not established by the prosecution with enough witnesses and documents beyond any doubt.’

Thus the judgment pronounced,

enavē, cantēkattin palanai etirikaḷukku aḷittu etirikaḷai viṭutalai ceyvatutān nītiyin nalanukku ukantatāka irukkum enrum nītimaṅṛam muṭivu ceykinṛatu.

‘Therefore, this court decides for the advantage of justice, giving the benefit of doubt to the accused, they are acquitted.’

When using forensic linguistics as a tool of forensic document examination, the judge looked for patterns in language as well as inconsistencies in those patterns.

Example 6

Case No. 4: Sheela murder case

Though the accused in this case were convicted, at a later stage, after a year, the case was taken up and they were acquitted because of the DNA mismatch. The legality of the case was maintained as per law.

In conversations, an investigator might notice clues in conversational turns, how frequently an individual reintroduces a topic, how quickly a person responds, whether or not speakers talk over each other, the truthfulness of the statements, etc.

The Principle of Validity

“Validity refers to the faithfulness of a test. It is one of the five criteria used for the critical evaluation of tests. The other criteria are administrability, economy, reliability and scorability.... A test is said to be valid when it measures accurately and faithfully the ability or the knowledge that the test is intended to measure.” (Subbiah, 2002). The same is true of the confessions and statements given by witnesses, both the PWs and DWs or the defendant, where accuracy and faithfulness get specific importance.

“Eyewitness testimony is far from being fool-proof. Despite the assumption that witnesses under oath are honest, sincere, and credible, there may be sufficient discrepancies. Any two witnesses to the same event will undoubtedly and unfailingly observe it differently. What is subjectively true to a witness may be objectively false due to faulty or defective perception.” (Brunson, 2010). If they are ear witnesses need not be taken seriously for they may be deficient in reliability.

There are plenty of factors that go into the question of the accuracy of a witness's perception. The statement made to the police near the time of an incident, normally has substantial changes by the time that a deposition or trial occurs. This is especially true when the witness is confronted with their original signed statement.

Example 7

Case No.9: Bribe case on Ganapathiya Pillai

The trial was going on and the complainant Mathusoodana Perumal could not explain further the details of the case, since it was a false case made on the Head Master. The complainant was declared hostile by the prosecution. The sentences uttered by the HM was

partially reproduced and in fact the documents produced and the circumstances in which the sentences were uttered were proved beyond doubt that the case was a forged one and the validity of the case was at stake.

The complainant Mathusoodana Perumal could not answer to the questions raised by the defense in the cross- examination. The prosecution advocate requested the Hon. Judge to declare him as hostile. This request was based on the replies he gave on cross-examination. The negative points to the case are given in italics.

.....talaimai āciryaruṭaiya mun irukkaiyil 2-vatu etiriyāna pārkkavi uṭkārntiruntār enrum connēn *enrāl nāpakam illai*. nān mēlum talaimai āciryariṭam paṇattai koṭutta pōtu talaimai āciryar irāṇṭāvatu etiri pārkkaviyai pārttu inta paṇattai vānki vaiyunkaḷ enru connatāka connēn *enrāl nāpakam illai*. mēlum talaimai āciryar connatin peril nān inta lancappaṇattai irāṇṭāvatu etiriyāna pārkkaviyīṭam koṭuttēn enrum, atanai avar valatu kaiyāl vānki talaimai āciryarin mun pōṭappaṭṭirunta mēcaiyyin terku mūlaiyil vaittār enrum pinnar anta paṇattin mītu oru pancin micinai vaittār enrum colliyuḷḷēn *enrāl cariyāka nāpakam illai*.....

‘.....I do not remember whether I had told that the accused 2 was sitting in front of the head master. (In fact she was sitting in the right side of the table). I do not remember whether the HM requested accused 2 as to ‘please get and keep the money’ when I paid the money. (The prosecution tried to establish that the bribe money was received by the HM). Further, I do not remember whether I had said that only on the request of the HM. I had given the money to the accused 2 and that she kept the money received by her in the right side of the table, placed before the HM and after that she kept a punching machine on the money.’ (He refused to accept all the facts, since if he accepts that would become negative to the case.)

It is a fact that retention and recall decreases in direct proportion to time interval. The greater the time interval, the greater the loss of facts can be seen.

The Principle of Reliability

“Reliability refers to the consistency of a test in measuring whatever it measures what it has to measure.... Reliability is necessary for validity, because a test with scores which fluctuate very much does not test anything” (Subbiah, 2002). It is true that the definition best suits language teaching and evaluation. But the same definition when extended to the analysis of statements of witnesses in the court, where it will be interpreted for the consistency of a statement is more important. In the same way if at all a lie is to be made a fact, the statements should be consistent. But truth always wins and these efforts taken by either prosecution or defence would lead to acquittal sometimes as happened in the above mentioned case.

Example 8

Case No. 8: Rape case of Sophia

Though the prosecution tried its best to establish the rape of Sophia case, the reliability criterion also did not contribute to the conviction of the accused. But what made the judge to convict the accused and punish him with 5 years RI and Rs 5000 fine was the fact that the statement given by the victim was so innocent and expressed the truth had added dimensions to the crime.

Example 9

avaratu onrukku irukkum cātanattai eṭuttu nān oṇṇukku irukkum cātanattil iruttinār.
enakku vali eṭuttatu.

‘He pressed his organ for urinating against my urinating organ. I suffered pain.’

It means that the statements produced in the court as well as the first examination failed to impress upon or establish the fact convincingly. There were no eye witnesses and all of them were ear witnesses. It is also true that there cannot be, by and large, any eye witness to a rape case but then how would they be evaluated? This doubt remains unanswered throughout.

Example 10

Case No. 7: Attempt to murder of Sasidharan Nayar

Inconsistencies in mentioning the time of admission to the hospital and location of the incident have contributed to affecting the reliability of the case.

- a) aracu tarappil kūrappaṭum pōtu, mutal takaval aṛikkaiyil kalluppālam āciriya payirci paḷḷiyin mun pakkam uḷḷa varāṅṅāvil niṛkum pōtu.....

‘While the prosecution mentioning about the place of occurrence of

‘the incident, in the FIR it was mentioned (that the PW 1 was attacked when) he was standing in the front verandah of the Kalluppalam Teacher Training School.’

- b) ānāl kurrap pattirikkaiyil āciriya payirci paḷḷi kaṭṭiṭattin vaṭakku kaṭaici aṛaiyin mun varāṅṅāvil campavam naṅantatāka kūrappaṭuḷḷatu.

‘But in the charge sheet it was mentioned that the incident occurred when the PW was standing in the verandah of to the last room in the north side of the building of the Teacher Training School.’

Reliability is necessary for validity. The court, in this case, found out lots of inconsistencies in the micro factors like time, location, persons involved as witnesses, etc., and

has down played the reliability of the statements of PWs which led to the acquittal of all the accused persons.

Many factors should be considered to assess the reliability of any particular stated fact. These factors fall into two categories, namely, the first relate to intentional misstatement, that is, lying and the second relate to honest though mistaken recollections.

The second one was the reason for what happened in the case of attempt to murder of the HM, Sasidharan Nayar.

However, circumstances of honest though mistaken memories are likely to be universal and these raised significant difficulties in determining the circumstances of a confrontation. In the above case all the four accused were acquitted because of the evaluation based on reliability.

It is suggested here that an electronic recording of interrogations/ oral confessions and statements / first examination and cross examination reduces the risk of false confessions and increases the reliability of the evidences. Video recording of the entire legal proceedings provides the best evidence of all that occurred. It can effectively resolve disputes arising about the legitimate approaches in the legal process and discourage false accusations of police delinquency also.

The Principle of Authenticity

A linguistic profile of the detainee based on performance during face-to-face assessment can provide useful and sometimes more important insights. The main purpose for the kind of language assessment is the provision of information about a particular person's use of the language, here Tamil, that is, a linguistic profile. This would give authenticity to the facts.

Example 11

Case No 2: Vijayalakshmi murder case

While confessing the accused Natarajan used a few sentences to hide the fact, and words he used have forensic linguistic value. Those points have led to his arrest and punishment later. The accused tried to cover up somebody's involvement in the crime. His way of talk and the vocabulary used, the tone in which he expressed gave a chance to doubt him. After her murder, he made a complaint to the police that his wife Vijayalakshmi was missing. In his complaint there was a sentence

enku tēṭinālum kiṭaikka māṭṭāḷ.

‘She will not be found out, even if searched everywhere.’

This gave the clue to doubt him. The sentence can be interpreted as ‘I know that you may not be able to find her since something has happened to her, which I know.’

Example 12

In the same case, he used the following sentence repeatedly emphasizing ‘nobody else’ had a negative authenticity, which the police made use of and finally found out the involvement of his lady love and arrested her also.

nān maṭṭum tān kolai ceytēn. vēru yārum illai.

‘I only killed her. Nobody else was there.’

In the confession he was using the following words also which authentically brought the truth out. Words and phrases like the following used by Natarajan are very important to establish the case.

Example 13

kaḷḷakkātal ‘illegitimate love’

tīrttu kaṭṭu ‘to terminate (somebody)’

| | |
|---|---|
| muṭivu cey | ‘to decide’ |
| āyutankaḷ | ‘weapons’ |
| kolai cey | ‘to murder’ |
| māṭṭikkoḷ | ‘be caught’ |
| aṟuttēn | ‘cut-I’ |
| kattiyāl ōngi kuttu | ‘to stab with knife brutally’ |
| mukam aṭaiyāḷam teriyāmal iruppatarkāka | ‘for nobody should identify the face’ |
| āl naṭamaattam illāta pakuti | ‘the place where nobody will be coming’ |

These terms have their discourse value within the context associated to murder or intention to murder. This also increased the authenticity of the confession / statement.

Video and Audio Tapes

It is also suggested that such an assessment should be based mainly on an evaluation of the video tapes or at least audio tapes, and transcripts of police interrogations, etc. However, relying on police interrogation or recorded tapes, if available, may provide only a partial view of the detainee’s or language ability of the accused and his attitudes. This interrogation may be extremely complex because of the communicative strategies, which are unique to such contexts, such as, avoidance strategies on the part of the detainee and force strategies on the part of the interrogators.

Face-to-Face Assessments

Face-to-face assessments of task performance of the accused / detainees, followed by an analysis of the samples obtained during the tests are very important to establish facts. This methodological combination enables us not only to provide information on a detainee’s proficiency, but also to exemplify features of production, which might influence the overall performance. This can be seen as a problematic one, since the circumstances in which the assessment samples obtained are very different from those that applied during the police

interrogations.

Testing

Testing can be carried out in one of the two places, depending on the circumstances; if the detainee is on bail, it may be taken place on the premises of the lawyer and if he is on remand, it may be taken place in the prison. It may also be true that because the language assessment breaks the routine of prison life, the detainee tends to be extremely willing to talk, particularly with someone from outside the prison and about topics other than matters of their legal case.

This can be highly motivating and productive and often results in spontaneous authentic conversation. The assessments themselves involve more conversational strategies. The entire process may be voice recorded. This aspect of performance will provide very useful information about task processing.

The Principle of Truthfulness in Documents

It is not an easy task to get the feature of truthfulness in criminal cases. Even at the end of the trial, the court asks the accused person(s) about their involvement in the crime and they, in turn, never accept their part.

Example 14

Case No. 3: Tractor accident leading to murder

etiriyai k.v.m.c. pirivu 313 paṭi etirikku pātakamāka amainta cāṭciyattinaik koṅṭu vinava etiri aracu tarappu kūrrai maruttu tān kurravāḷi illai enru kūrinār. etiri tarappil cāṭci yārum vicārikkappaṭavillai.

‘When the accused was asked keeping in view of the witnesses against him u/S 313 CrPC, the accused objected to statement of the prosecution and said he is not an offender. No witnesses were examined for the defence side.’

Example 15

Case No.5: Attempt to murder Muthaiyan-Judgment

When the truthfulness is suspicious, the statements are analyzed by cross checking the document submitted by the prosecution. In this case when evaluated the honesty of the sequence of actions taken place it was found out to be exaggerated.

a.cā.1 tanatu kurukku vicāraṇaiyil pōlicukku avaratu manaivitān takaval koṭuttatākavum, avar koṭutta takaval aṭippaṭaiyiltān pōlicār vantu vicārittatākavum kūriyullār. a.cā.2-m tannuṭaiya kurukku vicāraṇaiyil putukkaṭai kāval nilaiyattil takaval koṭuttuviṭṭu, meṭical memō vāṅkikkoṇṭu maruttuvamanaikku pōnatāka kuriyullār. a.cā.2 -nuṭaiya maruttuva cānṛital a.cā.5 āka kuriyiṭu ceyyappaṭullatu. a.cā.5 maruttuva cānṛitalin meṭical memōvuṭan avar cikiṭcaikku ājarānatāka kuṛippiṭapaṭavillai. itiliruntē avar kāval nilaiyattil pukār koṭuttuviṭṭu aṅkiruntu meṭical memmō vāṅki viṭṭu maruttuvamanaikku cenrār enru kuṛi iruppatu mikaippaṭuttappaṭa cāṭciyam enpatu terikiratu.

‘The PW 1 has said in the cross examination that his wife only gave the complaint to the police and based on the complaint given by her the police had come and enquired. PW 2 in the cross examination, said that having given the complaint to the Putukkadai Police Station and getting the medical memo, he has gone to the hospital. In the medical certificate PW 2 is mentioned as PW 5. There is no mention in the medical certificate that PW 5 had come for treatment with the medical memo. From this itself one could understand this witness is an exaggerated one. He had gone to the police station to give a complaint and after getting a medical memo he had gone to the hospital.’

It is to be noted that though the accused were convicted for the crime, the truthfulness when suspicious was questioned by the Hon. Judge. This was proved by the documents produced as evidences for the crime.

There are linguistic evidences in the confessions and statements form part of the utterances which are not truthful or false.

Example 16

Case No. 2. Vijayalakshmi murder case

The accused Natarajan has said that he himself was involved in the murder, in Tamil led to the arrest of his partner in the crime. The pronunciation, the stress given to some words like nān maṭṭumtān ‘I only..(only myself)’, the change voice of given, etc., gives clues to the falseness of the confession.

Example 17

Case No.1. Janakiyamma murder case

The accused Murugan, in his statement, had denied the involvement of another person, that is, his nephew Shankar saying,

nān kollavillai. kollavillai enṛāl eppaṭi nān arivāḷaiyum kattiyaiyum
kāṭṭamuṭiyum?..... nānkaḷ avaḷōṭu mutalil caṇṭai pōṭṭōmē tavira avaḷai kollavillai.
‘I did not kill her. If I had not killed her, how can I show the sickle and the dagger?’

‘.....We have quarreled with her earlier but we have not killed her.’

After intensive interrogation using the above sentences where he had used one time /nān/ ‘I’ and another time /nānkaḷ/ ‘we’ and emphasizing the use of pronouns, he accepted the involvement of his nephew also. Hence language as such has an important and major role to play in Forensic Linguistic analysis.

Conclusion

Collecting and producing of evidence is an important part of any case. Confessions and Statements are one of the major evidences used in the court of law, for proving the guilt or otherwise. Confession of suspects and statements of witnesses have to be genuine so that justice is served. To perceive the genuineness of the confessions and statements this paper suggested a mechanism or tool called Statement Worthiness Evaluation System (SWES). This system evaluates its features such as their legality, validity, reliability, authenticity and the truthfulness. With enough number of examples the above said features of confessions and statements are proved using Statement Worthiness Evaluation System (SWES). For better effectiveness and lawful judgment, the above mentioned principles may be meritoriously used. It is also suggested here, if a major project on the forensic linguistic study based on the findings of this paper is taken up, this will lead to develop computer applications or some sort of software in future.

=====

Abbreviations

- a.cā.** - aracu cāci (prosecution witness)
CrPC - Code of Criminal Procedure
DNA - Deoxyribonucleic Acid
DW - Defence witness
FIR - First Information Report
HM - Head Master
IEA - Indian Evidence Act
IPC - Indian Penal Code
PW - Prosecution witness
RI - Rigorous Imprisonment
SWES - Statement Worthiness Evaluation System
u/S - Under Section
- =====

References

- Agnes, Michae. 2006. Webster's New World College Dictionary. (4thD Edition). New Delhi: Wiley India (P) Ltd.
- Brunson, Tim. 2010. The Validity of Eyewitness Accounts - What You see is What You Think!
- Rutledge, D. 1994. *Criminal Interrogation: Law and Tactics*. Placerville, CA: Copperhouse.
- Rafferty, Lisa. 1999. 'Anything you say can and will be used against you: Spectrographic evidence in criminal cases'. *American Criminal Law Review* 36: 291–311.
- Renkema, J. 2004. Introduction to discourse studies. Amsterdam: Benjamins
- Subbiah, Pon. 2002. An Introduction to Evaluation Terminology. Mysore: Central Institute of Indian Languages.
- Vijayan, N. 2015. Legal Processes: A Forensic Linguistic Study (Thesis submitted for Ph.D. Degree), Annamalainagar: Annamalai University.
-

N. Vijayan, M.A. (Criminology & Police Administration), M.A. (Linguistics)
vijayan733@hotmail.com