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Mental disability
False confessions
&

A death sentence overturned !

- False Confessions
- Understanding Intellectual Disability
- Risks of False Confessions Among Individuals with Intellectual Disability
- SKM's Case History And Court Proceedings
- References

Types Of Confessions

➤ Voluntary False Confessions

No apparent police pressure to confess, psychological or instrumental gain , seeking attention, protect the perpetrator , or seek punishment.

➤ Coerced-Compliant Confessions

➤ escape an aversive interrogation, avoid an explicit or implied threat, or gain a promised or implied reward.

➤ Coerced-Internalized Confessions

Individuals come to believe they committed the crime due to intense interrogation. Role of false memories and memory deficits.

Overview of False Confessions

- **Pressures of police Interrogation**
- **Suggestibility and desire for interrogation to end**
- **Memory Distrust and Vulnerabilities**
- **Singapore context : Threat, Inducement, Promise**

DSM-V : INTELLECTUAL DISABILITY



- Deficits in intellectual functioning :“reasoning, problem solving, planning, abstract thinking, judgement, academic learning, and learning from experience”
- Confirmed by clinical evaluation and individualized standard IQ testing
- Deficits in adaptive functioning
- Onset during childhood

Vulnerability to Suggestibility and Compliance



Cognitive Limitations Impact

- Individuals with intellectual disabilities often face challenges processing complex or leading questions effectively



Susceptibility to Leading Questions



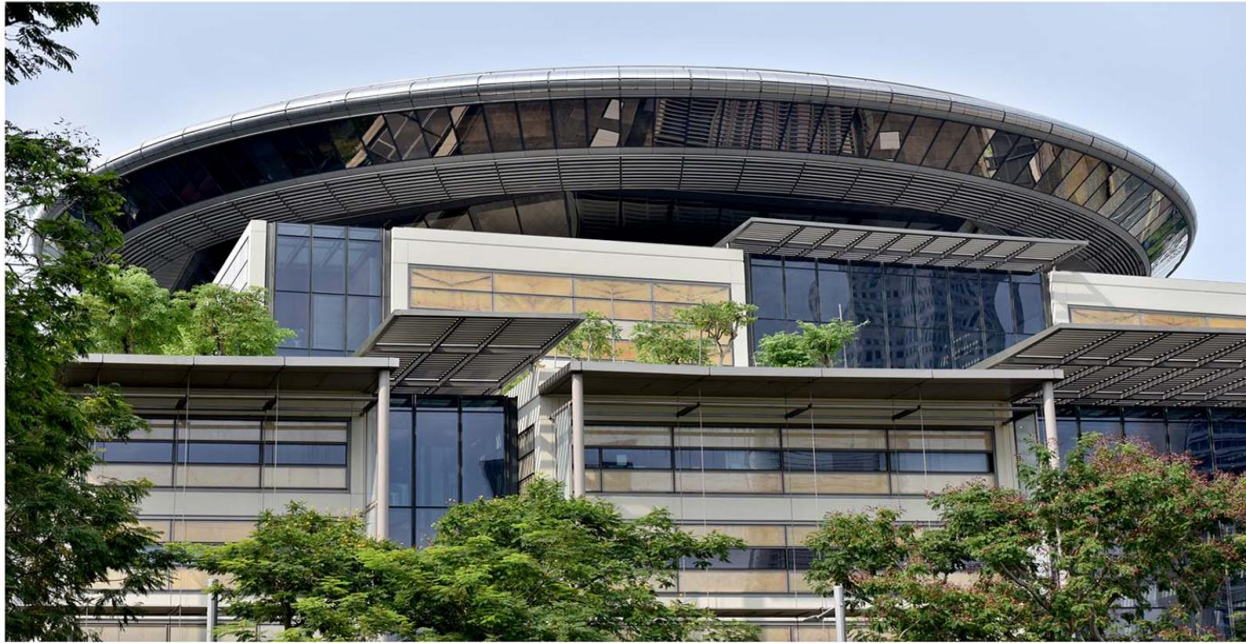
Compliance with Authority

Challenges During Police Interrogations



- Do not always understand questions or implications of their statements
- Limited social intelligence (may misinterpret the IO's body language)
- Suggestible to leading questions
- Easy to please (biased responding)
- Easily overwhelmed by stress

Capital drug offender avoids gallows following retrial; jailed for 12 years



The Court of Appeal ordered a retrial as the accused, S.K. Murugan Subrawmaniam, had previously chosen to remain silent but changed his mind after all the evidence was taken at the end of the High Court trial. PHOTO: ST FILE

- Avoids gallows following retrial
- Confessions ruled inadmissible, following a rigorous cross examination of the experts engaged by the 2 sides (3 clinical psychologists & 2 psychiatrists)

- Convicted to death after the first trial in 2018 by High court (*trafficking heroin not less than 66.27 g of diamorphine*)
- Was on death row for more than a year
- Court of appeal ordered a second trial (2020 and 2021) and case sent back to a different high court judge



The defendant elected to stay silent during the first trial (upon legal advise), however wanted to give evidence, hence the CA sent the case back for retrial

- I was the psychiatrist for both the trials (engaged by the defence)

- Expert witnesses : Psychologists/Psychiatrists
- False confessions expert (*Dr Bruce Frumkin, USA*) gave evidence in the first trial for the defence.
- Second trial (*trial within a trial, voir dire regarding the voluntariness of seven statements*)
- Trial within a trial lasted 40 days (record in Singapore)

Case of SKM

- 50 year old Malaysian lorry driver arrested on 6th January 2015
- M met H in his lorry, H left the lorry carrying a bag containing 5 bundles of heroin (*66.7 g of diamorphine*)
- H was arrested at the spot .
Subsequently passed away within 1 hour at the hospital (breathless)
- M was unaware of H's arrest and M was arrested shortly after H was arrested.
- No drugs were found with M or in his lorry. Cash was seized.



Contemporaneous statement and cautioned statement (6th and 7th January 2015)

M denied giving any items to H and said he collected \$13000 from H .

He said H was carrying the items and asked him to leave the lorry once he saw the items.

Statement taking

- **Long statements** recorded from 9th January 2015 to 14th January 2015 (interpreter present)
- **Statements presented a radically different picture .**
 - Admitted to the offence as he had financial difficulties.
- **Defence case:**
 - There was ***inducement by the IO*** when he promised to bring H to M, if M gives the statements first or admit to the offence.
- **Alternatively**, to exclude the statements on the basis that the ***prejudicial effect of the statements outweigh their probative value.***
(No Q and A record, mild intellectual disability and poor communication skills).

Issues to be determined

- Test of voluntariness
- Partly objective (*fact sensitive*) and partly subjective (*effect of the inducement, threat or promise on the mind of the accused person*)
- Court will consider all the circumstances (*personality and experience of the accused person*) whether TIP has affected the statement taking process



Issues to be determined

Issues to be determined by the Court

A. Whether the inducement was objectively made

B. If it was, what was the effect of the inducement on M's mind in the *light of his intellectual and adaptive functioning*

C. Whether the Court should exercise its discretion to exclude the statements

Whether the inducement was objectively made

- Court came to the view that the defence had raised a reasonable doubt in the prosecution's case that no such inducement was made
- M claimed that the IO promised to bring H to M if he admitted to the offences
- M was unaware that H had passed away as the IO did not tell him
- M only came to know that H passed away after 1 year
- He expected H to confess that the bundles belonged to him and exonerate M

Findings

- Judge also took into consideration that M repeated the same version to the prosecution psychiatrist (*Dr Jaydip Sarkar*) who saw him 4 months after the recording of the statements.
- He asked for help from Dr Jaydip to inform the IO to bring H to him so that H can take ownership of the bundles.(*M did not have a lawyer at this time*).
- I got involved as defence expert in 2018 (*he gave the same account to me*).
- The judge took this into consideration and supported M's consistency in his account.

Statements

- Judge also noted that M denied committing the offences (*contemporaneous and cautioned statement*)
- Judge found that the long statements were induced as he had confessed to the ownership of the bundles even though there were no drugs found on him or in the lorry.
- He found it difficult to believe the version given by the IO and the interpreter.

The long statements were very detailed and very coherent, and the judge doubted it was M's own version.



Effect of the inducement on M's mind

- Protracted cross examination of the expert witnesses
- Defence experts (*myself and psychologists*) : ***Mild intellectual disability***
- 2 psychologists for the defence for the 2 trials
- Dr Rebecca in 2018 (Mild intellectual disability) : First trial
- Anbarasu (Tamil speaking psychologist) in 2019: Second trial : Mild intellectual disability

Court findings

- Judge's finding : He found that the evidence showed that M had some deficits in his intellectual and adaptive functioning.
- He considered the evidence of all the experts.
- Substantial deficits in his working memory and processing speed index.
- PRI was borderline.

Prosecution psychiatrist

- No intellectual disability as he was able to work, get married, have children
- Criteria A not satisfied (*based on his clinical assessment and the psychologist testing*)
- However, he highlighted that M struggled to comprehend questions and took a long time to answer questions during his multiple interviews.

Criteria satisfied for Mild Intellectual Disability

- Deficits in judgment, learning from experience , reasoning, problem solving, abstract thinking.
- Difficulties in comprehension
- IQ testing results (*2 psychologists, some low scores on IQ testing by the prosecution psychologist*)
- Job involved delivering items from one place to another, did not require much functional dexterity

My Evidence

- Got his driving license after multiple failures
- Wife manages financial affairs and household duties
- Difficulties remembering significant events, had impairment in short term memory
- Job was delivering goods from Malaysia to Singapore, goods were loaded and unloaded by others.
- Paper work done by company staff



My Evidence

- His job was as a driver, had problems with navigation during his initial years
- Has got into accidents while driving in Malaysia
- Dropped out of school early, significant academic difficulties in primary school
- Required assistance in getting jobs, jobs were mainly unskilled, became a driver subsequently
- Required assistance in financial matters
- Fulfilled clinical criteria for mild intellectual disability (confirmed by IQ testing)

Court's findings

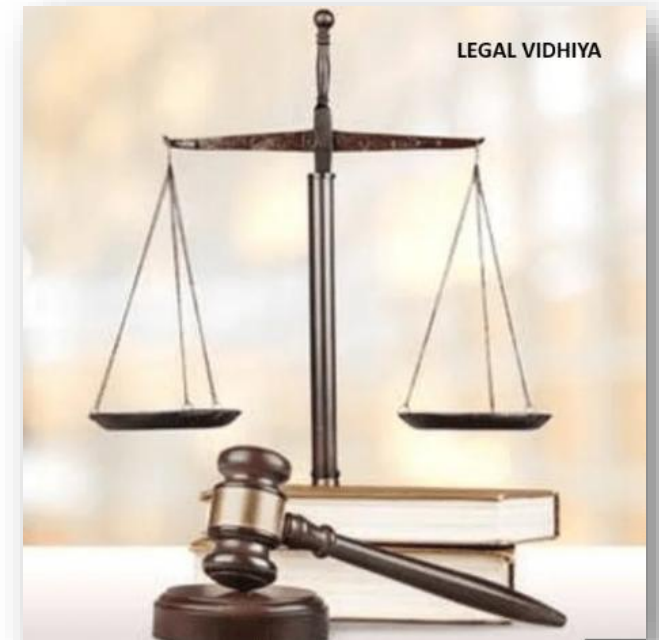
“I was of the view that the clinical assessments of M did not detract from my finding that M had substantial intellectual deficits. While he was able to have a job and family, this did not mean that he did not have intellectual deficits or did not face difficulties in his job or life. To the contrary, the evidence showed that there were substantial deficits in M’s intellectual functioning, at least with respect to his processing speed and working memory”.

M did have significant impairment in the conceptual domain of adaptive functioning and specifically had difficulties in communication skills.

In summary , considering the evidence of all the experts, I was satisfied that M had some deficits in his intellectual and adaptive functioning” .

Court interpreter's evidence

- Corroborated that M had significant communication difficulties
- 25 years of experience
- Had to simplify the translation which was quite taxing for her
- His answers were irrelevant sometimes
- He had difficulty comprehending
- Asked to repeat the questions a number of times
- Interpreter met the judge in chambers to give her feedback and she was subsequently cross examined



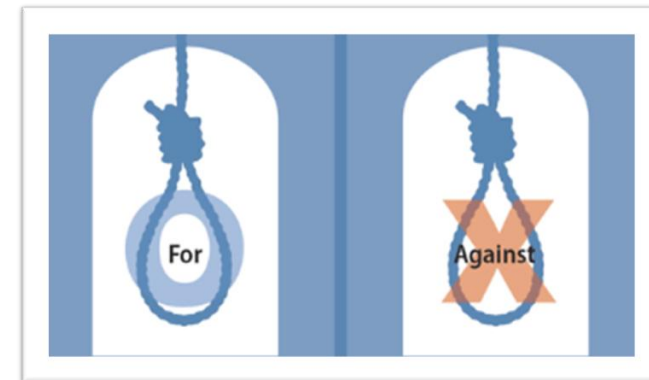
Effect of the inducement on M

Judge's findings

“After considering the submissions made by the parties, I found that the inducement gave M reasonable grounds to suppose that by making the statements, he would gain an advantage in reference to the proceedings against him.

Most crucially , he was not found with the bundles. I found that the prosecution failed to prove beyond a reasonable doubt that the statements were made voluntarily.

In the circumstances, I held that the statements were made involuntarily and should not be admitted into evidence”.



Wife pledges to donate wedding necklace if husband is spared death sentence

- SINGAPORE - When Madam S. Veluthai learnt in 2018 that her husband S.K. Murugan Subrawmaniam was sentenced to the gallows, she pledged in prayer to donate the gold Thali necklace she had worn for more than 25 years to a Hindu temple if he were spared.
- Her prayer was answered when the prosecution amended the charge and Murugan pleaded guilty to a non-capital offence, for which he was jailed for 12 years.
- She thanked her lawyers, Mr Thangavelu, Ms Jerrie Tan and Ms Chithra for fighting for her husband's case tirelessly

[Link to article: https://str.sg/33Kn](https://str.sg/33Kn)



References

- [1.https://www.elitigation.sg/gd/s/2018_SGHC_71](https://www.elitigation.sg/gd/s/2018_SGHC_71) (First high court trial in 2017 and 2018)
- [2.Public Prosecutor v S K Murugan Subrawmanian \[2021\] SGHC 185, Criminal case no 66 of 2017](#)
- [3.https://www.straitstimes.com/singapore/courts-crime/wife-pledged-wedding-necklace-if-husband-spared-death-sentence-tattooed-his](https://www.straitstimes.com/singapore/courts-crime/wife-pledged-wedding-necklace-if-husband-spared-death-sentence-tattooed-his)
- [4.https://tridentlawcorp.com/tridentlaw/2021/07/truck-driver-escapes-gallows-twice/](https://tridentlawcorp.com/tridentlaw/2021/07/truck-driver-escapes-gallows-twice/)



Thank you