

FORENSIC EXPERT IN CRIMINAL JUSTICE ADMINISTRATION WITH SPECIAL REFERENCE TO CRIME SCENE MANAGEMENT

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ABSTRACT

Forensic science is the branch of science in the field of the criminal justice system. In the finding of evidence in a crime, the order from the court instructs the police officer or a forensic scientist to collect the evidence from the crime scene which analyzes and helps the court in determining the cause, methods, etc. of the crime. In the simple terms 'forensic expert' is used to refer an expert witness who testifies or gives forensic related opinions at a dispute resolution trial or hearing by virtue of his/her specialized knowledge. Forensic opinions are sought from forensic experts to explain past, present, and future events. Since there are various branches in this department, each has its own role in the analysis of shreds of evidence from the crime scene. In the Indian legislations, there are many provisions that provide the expert opinion which is considered for every case in India. The analyzed report given by the expert is considered to determine the judgment of the issues that had happened in the case.

When the concept is compared with the other nations, it is seen that the rules & the procedure is not completely applied in India in all respect. This is understandable that the legislations and the notifications are not fully applied or they are not yet implemented. In this article, it would analyze the importance of forensic science and the value of the expert opinion in India, with a comparative analysis with the other nation.

Keywords: Investigation, Forensic, Expert.

INTRODUCTION

Forensic science is the use of science in the service of the law. Sciences used in forensics include all discipline that can aid in the collection, preservation and analysis of evidence such as in chemistry (for the identification of explosives), engineering (for examination of structural design) or biology (for DNA identification or matching). When the person who had learned the A forensic scientist is expert in any technical field and can provide an analysis of the evidence, witness testimony on examination results, technical support and even training in his or her specialized area. The main concept of forensic science is to analyse all the data which has been collected during the crime scene management which would help the court in determining the matter. Opinion of the expert is considered for the matter since the judge is not fully aware of all the things related to the matter. Forensic analysis is usually carried out by experts working individually or in teams. Advanced techniques often require laboratories where the investigative conditions can be carefully controlled and monitored. Private laboratories and government agencies support small and large forensic labs. Analysis of forensic evidence is used in the investigation and prosecution of civil and criminal proceedings. Often, it can help to establish the guilt or innocence of possible suspects. Forensic evidence is also used to link crimes that are thought to be related to one another. For example, DNA evidence can link one offender to several different crimes or crime scenes (or exonerate the accused). Linking crimes helps law enforcement authorities to narrow the range of possible suspects and to establish patterns for crimes, which are useful in identifying and prosecuting suspects.¹

¹ Richard Adderley; John Bond, *Predicting Crime Scene Attendance*, 31 Policing: Int'l J. Police Strat. & Mgmt. 292 (2008).

The Indian Evidence Act under section 45 enumerates the law relating to Opinion of Experts or commonly known as Expert Opinion/Expert evidence. This statutory provision is adhered to when the Court has to form opinion pertaining to foreign law, science, and identity of handwriting and finger impression. In such cases, the Court seeks opinion of skilled persons i.e. experts in the aforementioned fields. Matters commonly made the subject of such evidence include causes of death, insanity, effects of poison, genuineness of works of art, value of articles, genuineness of handwriting, proper navigation of vessels, meaning of trade terms and foreign law. A witness who is qualified to speak on these matters is called an expert. The importance of an expert is to determine the matter and analyse the scene of crime which would help the court in bringing a conclusion to the particular matter. The Supreme Court in the case of *State of H.P. v. Jai Lal and Ors*² had explained the substance of expert opinion by stating that Section 45 of the Evidence Act which makes opinion of experts admissible lays down, that, when the court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting, or finger impressions are relevant facts. *“Therefore, in order to bring the evidence of a witness as that of an expert it has to be shown that he has made a special study of the subject or acquired a special experience therein or in other words that he is skilled and has adequate knowledge of the subject.”*³

FORENSIC SCIENCE

Forensic science is the new branch of science where the works in the development in crimes are done. The Forensic Science is characterized as "The use of science to those lawbreaker and common laws that are upheld by the police organizations in a criminal equity framework". Forensic Science manages the utilization of the learning and system of different controls of science to legitimate issues. For proof examination, it includes the utilization of various teaches, for example, prescription, material science, legal science and science, DNA profiling, software engineering and building. For instance, material science is utilized to perceive the outline of a blood disperse; science sets up the premise of a mysterious suspect and science causes us to discover the substance synthesis of different medications. In this way, the capacity of criminological science in criminal equity and the lawful framework is frequently thought little of and very basic in nature.

In ancient India, the possibility of scientific science is anything but another one as restorative conviction was consistently pertinent to the necessities of the law. Sir William Herschel was one of the first to advocate the utilization of fingerprinting in the distinguishing proof of criminal suspects.⁴ Unique mark proof was first acknowledged in an Argentine court during the 1890s and in an English court in 1902. Also, Forensic proof is a control that works as per the parameters of the Indian legitimate framework. Its capacity is to give guidance to those directing criminal examination and to give to justices/makes a decision about the right data whereupon they can have full trust in deciding lawbreaker and common question. This is likewise useful in settling the crook and common cases. Further, Forensic science is a consolidation of practically all capacities of learning, an essential and capable asset that makes all allotment of equity in criminal, common, administrative and social settings conceivable. It helps in characterizing every one of the utilizations of science in reacting addresses that are of lawful centrality. In present occasions, Forensic science is an exceptionally created logical strategy that is utilized in criminal and common examinations, it is equipped for responding to significant inquiries and structures a coordinated piece of criminal equity system. It includes every single famous strategy, for example, unique mark investigation, DNA examination, ballistics and explosives, guns, culture and so forth. It encourages convicting those liable of wrongdoer just as can acquit the honest.⁵

ROLE OF FORENSIC EXPERT IN INVESTIGATION

Forensic expert is defined in section 45 of the Indian Evidence Act. The act states that a person who investigates on a crime scene and gives the report to the court for the analysis of the matter before the court. It is the one of the important part in the crime scene management. During the entire procedure of criminal

² AIR 1999 SC

³ Shariq Alavi; O. P. M. Tripathi, *Blood Tests at the Scene of Crime*, 60 J. Crim. L. Criminology & Police Sci. 532 (1969).

⁴ Forensic Investigation journal article – Forensic analysis

⁵ Supra 3

examination, proof is assembled from the area of wrongdoer or from an individual who is an observer to the entire occurrence, inspected in a wrongdoer research centre and after that the outcomes are introduced in the court. Each wrongdoer scene is extraordinary in nature and each case shows its own challenges. Measurable science assumes urgent job in the criminal equity framework by giving deductively based data through the investigation of physical proof, the character of the guilty party through close to home hints like unique finger impression, impressions, blood drops or hair, cell phones or some other contraptions, vehicles and weapons. It partners with the criminal through articles left by him at the sight and with the person in question or conveyed from the scene and the person in question. Then again, if the pieces of information recouped don't interface the blamed with the person in question or the location of event, the guiltlessness of the denounced is set up. Scientific science, in this manner, additionally spares the blameless. Because of the development of DNA innovation as a cutting edge strategy for legal science, gives great measure of data to the exploring officials that empower him to locate the criminal absolutely based on logical proof which he has left at the area of wrongdoers.⁶

CRIMINAL JUSTICE ADMINISTRATION IN INDIA

In the Indian context, the expert opinion is valued by the courts in India. As per the constitution of India, Article 20(3) states that the no person shall be accused of any offence shall to be witness against himself.⁷ It defends the accused by protecting him from the probable agony/torture during investigation during detention. Criminal law believes an accused as innocent until his guilt is proved beyond reasonable doubt. The Universal Declaration of Human Rights, Article 11, "Right to the presumption of innocence" states that "Everyone charged with a penal Offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence."⁸ The constitution under article 20(3), provides protection to the accused till he is proven innocent by the courts. In *The State of Bombay v. KathiKaluOghad & Others*⁹, the court held that giving thumb impression, specimen signature, blood, hair, semen etc. by the accused do not amount to 'being a witness' within the meaning of the said Article. The accused, therefore, has no right to object to DNA examination for the purposes of investigation and trial. The Bombay High Court in another significant verdict in the case of, *Ramchandra Reddy and Ors. v. State of Maharashtra*¹⁰, upheld the legality of the use of P300 or Brain finger-printing, lie- detector test and the use of truth serum or narco analysis. The court upheld a special court order allowing SIT to conduct scientific tests on the accused in the fake stamp paper scam including the main accused, Abdul Karim Telgi. The verdict also maintained that the evidence procured under the effect of truth serum is also admissible. In a 2006 judgment, *Dinesh Dalmia v State*¹¹, the Madras High Court held that subjecting an accused to narco-analysis does not tantamount to testimony by compulsion. However, in a subsequent case, i.e., *Selvi & Ors v. State of Karnataka & Anr*¹², the Supreme Court questioned the legitimacy of the involuntary administration of certain scientific techniques for the purpose of improving investigation efforts in criminal cases. In the above mentioned case, the Supreme Court held that brain mapping and polygraph tests were inconclusive and thus their compulsory usage in a criminal investigation would be unconstitutional.

In 2005, Code of Criminal Procedure was amended to assort the medical provisions of the accused person upon arrest. Section 53 of the act, the accused should be subjected to medical procedure as before producing the accused in the court. So, when the accused is produced before the medical officer, they will collect the samples from the victim and would send the results to the forensic laboratory for further analysis of the sample taken. The motive of such is that the courts to use forensic evidence in criminal scene investigation are diverse. Delay in producing the sample would result in difficulty in analysis of the evidence, the end result would be the less chance in the determining the evidence of the sample. The purpose of the medico legal examination is to reveal the actual cause to the victim. Therefore the documentation should be careful and

⁶ Supra 1

⁷ Constitution of India

⁸ UDHR Charter

⁹ AIR 1961 SC 1808

¹⁰ 2004 All MR (Cri) 1704.

¹¹ 2006 Cri. L. J 2401

¹² AIR 2010 SC 1974

systematic so the scientific conclusion which in many cases is not properly maintained.¹³ The National Draft Policy on Criminal Justice Reforms has suggested that Indian Evidence Act needs some amendments to make scientific evidences admissible as ‘substantive evidence’ rather than ‘opinion evidence’ and establish its probative value, depending on the sophistication of the concerned scientific discipline.¹⁴

In *Krishna v. State of Haryana*¹⁵, where the trial court had concluded, the facts and the circumstances of the case, more particularly relying on the report made by the forensic experts of the convicted appellant. In *State of Gujarat v. Mohan Hamir Gohil & others*,¹⁶ where the court had referred various authorities and different methodology used for testing and the scientific advancements made world. The court also observed the technology of used for testing has made great strides and achieved sophistication leading to results which can often times be used either for inclusion or exclusion of the accused.

In India, a serious concern was about the self determination of the labs and its regulations. The state and the central forensic science laboratories are under the direct management of the law authorities. They are also considered as a wing of the police department in certain states. The report made by the Committee on Draft National Policy on Criminal Justice highlights the guidance, accreditation; standard settings etc. of the forensic science should receive adequate attention in the policy frame work. The Malimath committee recommended that the well - resourced laboratories should be established to handle all the evidences as well as particular rule should be enacted giving guidelines to the police uniforms for attending genetic information and generating adequate safeguards to prevent misuse of the evidence.¹⁷

IMPORTANCE OF FORENSIC IN LAW

In the legal system, the concept of forensic is widely accepted all around the world. Back in the early period, a forum referred to a public place where judicial proceedings and debates were held. Thus, the origin of this concept came along with the law been enacted in stages in history. The legal system widely recognised the role of forensic evidence in the criminal trial of the offenders. Using the scientific techniques and other methods, there would be no scope of bias in the legal system.¹⁸

In the criminal justice system around the world have great benefited from Forensic science. Investigation and the collection of the samples as evidence required for the conclusion of the matter before the courts. This is considered as accurate enhanced in the field of forensic science. Not only in criminal side, but also the analysis is done for civil law also. In civil law, the evidence is based on the documents and other evidences relating to cheques, handwriting and so on. Even though the concept could be used in civil law, this is used more for the criminal law. The duties and responsibilities of a forensic scientist in a criminal investigation is crucial as it involves careful examination of evidence with due care so that it is not tampered with. A diverse pool of forensic scientists and forensic tools are involved in the investigation of a criminal act.¹⁹

Another perspective is that this would help in the identification called “Criminal Profiling”. The concept of Criminal Profiling, dated back to 1888, and it is believed that, this was brought by and adopted by FBI (Federal Bureau of Investigation). This enables the forensic experts or the scientists to zero down on suspects by determining a criminal’s mind-set and personality. It is based on the psychological evaluation of the belongings seized from an offender. The basic steps of criminal profiling include in- depth analysis of the crime scene, analysing the incidence and drawing comparisons with similar events in the past, evaluation of the victims history and the activities, i.e., motives, detailed description of the suspects for comparison of previous cases.²⁰

Forensic evidence is extensively used worldwide to both convict and exonerate defendants. Thus, forensic science laboratories have mushroomed all over the globe in the past couple of decades. In fact, special Acts have been enacted in the US, Canada, and Australia to improve the rendering of forensic services. This

¹³ Olivier Ribaux, Simon J. Walsh and PierreMargot, *The contribution of forensic science to crime analysis and investigation: Forensic intelligence*, 171-181 FSI vol.156 (2006).

¹⁴ Ibid

¹⁵ (2014) 13 SCC 574.

¹⁶ R/CR.A/224/2012

¹⁷ Report of the Committee on Draft National Policy on Criminal Justice, Ministry of Home Affairs, Government of India, July, 2007.

¹⁸ <https://ifflab.org/the-importance-of-forensic-science-in-criminal-investigations-and-justice>

¹⁹ <https://www.theprotector.in/role-of-forensic-science-in-the-criminal-justice-system/>

²⁰ Supra 17

ensures that crimes are detected with greater certainty, and consequently, conviction rates can increase. Such Acts place a great emphasis on time-efficient and quality management of crime scene.

CONCLUSION

So, in the Indian scenario, the use of technology has increased especially in criminal investigation and trial procedures in courts. The relevant laws have been amended from time to time so that there would not be any error in the implication of the law along with the technology. The courts are reluctant to rely upon scientific evidence due to their restrictive approach in the evidence as produced in courts which deter them from relying on it. The courts rely on these evidences for the conclusion of the cases. With the help of these experts and the analysis given, the major burden of the court is concluded. Therefore, it could be concluded that the key role of the investigation of crime. With the help of advanced technology the crime rate analysis had also changed. The importance is that the police machinery and the investigation machinery also use forensic science to detect the crime and the various methods of crimes happening all around the world.

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