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Admissibility of forensic evidence in india pdf

Image source - This article is written by Shruti Somya, a student running the BBA. Lib. of Symbiosis Law School, Noida. This is an article on the subject of forensics in the criminal justice system. Justice's introduction doesn't come with a single click or flash to anyone. It takes an amazing few moves. Many people are wrong about the idea of Hollywood movies or multiple web series, which shows that things are resolved within 1 hour, including advertising. Reality is not the same thing. A lot of time, patience, energy and many steps are involved in serving the justice of the individual. From the commission of a crime, through a police investigation, through legal proceedings, and finally to convictions and convictions. In a progressive and democratic society, legitimacy has always been considered a hallmark of justice. In bringing justice to justice, judges play a key role and are seen as the backbone of justice. As time progressed, there has been a significant development in the judicial system process. For this reason, there has been an extraordinary penetration of technologies and techniques in the crime-solving process. In this, forensics turns out to be a helpful hand. Forensics is a place where science is lawful. This is of great importance in criminal and civil matters. Forensic evidence is physical evidence found at the crime scene. For the impulse of fair judgment, shreds of evidence found at the crime scene play a primary role. They are considered secondary evidence, the documents being the basic evidence. Basic evidence combined with secondary evidence is presented in court, which helps the court understand the facts and deliver a verdict. After committing the crime, the investigating officer tries to gather the maximum evidence found at the crime scene. Their role is to investigate the smallest, because small evidence can bring the case back. Forensics has made an extraordinary contribution to solving criminal investigations and other heinous acts of violence. To understand this concept well, let's take the example of building collisions. In this case, forensic experts will examine the collapse of the building, and the same will be presented in court. The court will establish the link between the evidence and draw a conclusion. Forensics includes method and technology from various fields of science such as drugs, biology, pharmacy, chemistry, etc. For example, blood found on the site, blood spatter is using physics. Biology helps in recognizing a dead body, while chemistry can help determine the cause of death or a combination of drugs in the body. The concept of forensics is not new in the judicial system. Argentina was the first country to include forensic evidence in 1902. Sir William Herschel presented fingerprint evidence to identify the suspect. Even the Indian justice system relies on evidence such as fingerprint, DNA analysis, posthumous for centuries. Recently, there has also been a spike in the use of advanced forensic methods such as narco analysis, lie detector and others. Forensic analysis has laid the foundations for criminology that there is no perfect crime. It helps in the balance, that is, the sentencing of the guilty and the pardon of the innocent. Click on the above legal provision supporting forensic analysis of forensic forensics using evidence found at the scene, using scientific technology, provides the investigating officer with excellent information. Do they help the court find answers to certain questions, such as how the crime was committed? What is the nature of the crime? Who are the suspects? And answering all the questions, they try to recreate the crime and try to find the cause of the crime, further reaching the offender. Although forensics has made a significant contribution to the criminal justice system, the limitations of the law cannot be ignored. A few questions revolved around the mind of many lawyers, such as are forensic evidence admissible in court? How far are these techniques justified? There has been much debate for centuries that forensic evidence presented in court overcomes a basic provision of law. Under Article 20(3) of the Indian Constitution, any person who is charged with a crime, she/he may not be forced to be a witness against himself. This article was for the protection of the accused from psychological harassment that pass during the police investigation. It was found that the police only to close the case, brutally beat the accused and forced them to be a witness against each other. Under this law, no one is compelled to answer any question or present any document that may act against them in court. Many people believe that fingerprinting and DNA analysis for verification defeats the provision of Article 10. They argued that forcing the accused to give fingerprints is like the defendants who testified against each other. But the Supreme Court in Mumbai state case v. Kathi Kalu Oghad and Anr. considered that forcing any person to provide any forensic evidence, such as fingerprints, blood, hair semen, does not infringe the provisions of Article 10(1) (a) and (b) of Directive 91/414/EEC; The same is even mentioned in sec. 73 Indian Evidence Act, which mandates that any person may be asked to provide a fingerprint or DNA testing even to the accused. Another debate concerned the analysis of Narco and its importance. Narco analysis is a new development in the field of criminal investigations. However, the question arises as to whether evidence from narco-analysis is admissible in court. In this method, the investigating officer to acquire some kind of statement from a semi-conscious person that can be used as evidence. This process has several questions about law and ethics. Some considered that this was in breach of Article 81 EC. Earlier in the case of Ramchandra Reddy and Ors. v. State of Maharashtra, the hon'ble court upheld the constitutional validity of the use of narco-analysis and lie detector, but most recently in 2006, in the case of Selvi and Ors. against the state of Karnataka and anr. considered that the person making the declarations on brain mapping or the narcotic test was semi-conscious and therefore could not be considered conclusive and therefore could not be part of the mandatory investigation process. Section 53 of the 1976 Code of Criminal Procedure provides that a person accused of any offence may be asked to undergo a medical examination if officers believe that the examination may provide certain evidence of a criminal offence. In 2005, some changes were made to criminal proceedings to include a study relating to blood stains, DNA profiling, semen testing, same, etc., but this was only appropriated for cases of rape. Further sec. 164A of criminal proceedings, also authorizes the medical examiner to investigate the rape victim within twenty-four hours. But the question is whether all practitioners are proficiency in collecting DNA samples. It is well known that the sample taken must not be contaminated as it would not be used further. The justice system has a great deal of faith in forensics and has relied on them for centuries to pass judgment. Forensic reports are considered a Bible for many judges and have been considered a conviction filed by experts. But the courts are not bound by reports and can count on other evidence. Restrictive use of forensic evidence in India's judicial system Although the use of forensic evidence has been on the rise of the judicial system, restrictive use in the Indian judiciary can be seen. Until now, the court has relied heavily on non-clinical, unsuited evidence of the judgment. According to a recent study by India's Supreme Court and the Delhi Supreme Court, only 60-65 cases are resolved involving forensic evidence. DNA evidence was used only in about 5% of murder cases and 3% of rape cases. These figures are sufficient to demonstrate the lack of scientific evidence in the criminal investigation in the Indian scenario. A space project has been undertaken to integrate forensics into the investigation process. The conviction rate has been steadily declining recently due to a lack of evidence. In this environment, forensic evidence of a crimping nature can to some extent reverse the situation. The Court's reluctance to use forensic evidence for criminal investigation has many reasons. From improper collection to maintenance, even not collecting. In many cases, the court found that the evidence gathered from the sites had not been duly preserved because the reports showed a non-political outcome. DNA samples are contaminated and become ineffective. There was an eternal delay in sending evidence to the laboratory. The delay in the control of biological and serological evidence results in the breakdown of such evidence, which tends to release a large amount of alcohol. Thus, in cases such as determining the drunkenness of the body, a negative result can prove positive, making it difficult for the court to rely on the result. The motive for the forensic analysis was to determine the cause of death, and perhaps tiring by examining the crime scene. Therefore, it is necessary to handle the evidence and arrange the documents to be valid in court. Forensic evidence has great potential in various cases, the only step needed is to effectively integrate it into the investigation and analysis process. Obstacles faced by allied subsidiaries Technical field, such as forensic evidence, is still not used too much because even the investigating officer is unskilled and ill-informed. To date, research has been carried out on old, unscientific techniques. The investigating officer is considered the first defendant to commit a crime, a lack of scientific knowledge serves as a serious threat to justice. Another problem is the autonomy of forensic laboratories. In India, forensic laboratories are located under their home department or under the police department. They are under some departments and cannot maintain sovereignty. For an objective outcome, it is cardinal for forensic laboratories to be independent without interference from any department. Laboratories lack even basic infrastructure and forensics. The lack of equipment, funding and coordination between the police and forensic experts are just some of the important challenges facing this area. The committee's report on the draft national policy stresses that guidelines, professionalism, research and development in the field of forensics should be relevant within the framework. Furthermore, the Malimath report suggested that particular attention should be paid to the development of forensic laboratories with all the necessary equipment. In addition, certain rules should be laid down in order to establish standards for DNA profiling and handling of the sample for analysis. The Verma Commission has come out on the subject of storing DNA samples. Conclusion It is an undisclosed fact that the role of forensics and evidence is of great importance in the justice system. Thanks to advances in science and technology, forensics has also been rapidly developing. But after all, there was also less dependence on scientific methodologies, especially in India. In India on the inclusion of technology in the field of investigation. Several committee reports have suggested that if the courts consider the scientific method of sentencing, it could bring justice, which is the hallmark of democracy. But the courts were reluctant to consolidate forensics in their system, mainly due to evidence contamination experience and falsified results. They prefer to use old, unscientific methods for their purposes. There have often been changes to the rules to create ways to make forensics and modern technology, but that hasn't helped. Investigators are unskilled in the subject and a number of forensics and experts are adding fuel to the fire. This area of law and science is not quite known and has therefore always faced the problem of a lack of employers. Law and medical colleges must include forensics as a subject and encourage students to move forward in this area. The government must take steps to raise awareness of the importance of forensics in the criminal justice system. Police, forensic officers, detectives, scientists must be trained in the progress of science and technology and the importance of such evidence. Without a doubt, forensic evidence is more justified than any other evidence. This area, as a blessing to the criminal justice system, we must work on loopholes. We must ensure that all those involved in the judiciary use the privilege of forensics to their maximum potential. Testimonials 1) 2) 3) Forensic Science, National Institute of Justice, Office of Justice Programs, Cases Referred 1) Bombay v. Kathi Kalu Oghad and Anr. AIR 1961 SC 1808, 1962 SCR (3) 10 2) Ramchandra Reddy and Ors. v. Maharashtra State. 2004 ALL MR (Cri) 1704 3) Selvi and Ors. against the state of Karnataka and anr. 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