
THE NEED AND ADMISSIBILITY OF SCIENTIFIC EVIDENCE IN CRIMINAL JUSTICE ADMINISTRATION

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INTRODUCTION:

Technology has become unavoidable thing in this contemporary world. It is integrated in everything we do in our day to day life. The law changes as per the needs of the society. The technology has become the integrated part of crime justice system in the form of scientific evidences. Many judgments were pronounced with the help of the scientific evidences. Those scientific evidences will be accurate and helpful to uphold the justice. There is some conflict in the admissibility of forensic evidence in the court of law. From the past to present various types of forensic evidences were admitted in the court and landmark judgments were delivered in both criminal and civil trails.

EVIDENCE:

Any object or a thing that produced in favor or against a person during inquiry or trail in the court of law. This includes documents, fingerprints, photographs and cctv footages. This is terms as an evidence¹.

FORENSIC EVIDENCE:

The forensic evidences or scientific evidences are evidences that are collected from the scientific experiments and observations. These evidences include DNA profiling (blood stains, seminal stain, body fluids), Fingerprints and etc.²

CONSTITUTION AND FORENSIC EVIDENCE:

¹ Nisha Kumari, *Forensic Evidence and Their Admissibility*, INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION, Vol 2, Issue 2, (2020) at 769..

² Nisha Kumari, *Forensic Evidence and Their Admissibility*, INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION, Vol 2, Issue 2, (2020) at 769.

Article 20 (3) of the Constitution of India provides rights to self-incrimination to an accused³.

i.e, the accused person can't be forced to be a witness against him. "Nemo tenetur podre accusares eipsum" is the legal maxim which means no individual can be force to incriminate himself. The Criminal law says that an accused as innocent until his guilt is proves beyond reasonable doubt⁴.

The right against self-incrimination under article 20(3) of Indian constitution can't be used against the voluntary statements and disclosure of documents by the accused person.

In the case of **Kalawati Vs State of Himachal Pradesh (1953)**

In this case the court held that the evidence (statement) voluntarily given by the accused person without any force and compulsion is not against the right to self-incrimination under article 20(3) of Constitution of India. And this right to self-incrimination is applicable only in criminal cases.⁵

In the case of **V.S. Kuttan Pillai Vs Ramakrishnan and another (1980)**

The court held that to obtain any document or to get any possession from the accused person the warrant can be issued by the court.⁶

As per section 73 of Indian Evidence Act 1872 and Section 72(2) of The Bharatiya Sakshya Adhiniyam, the court can direct any person to give their finger prints and to write words for the purpose of comparison. This is not against the article 20(3) of the Indian Constitution.

In the case of **State of Bombay Vs Kathi Kalu Oghad and others (1961)**

In this case the court held that the accused person does not have right to object the DNA examination. The DNA examination is not against the right under article 20(3) of Indian Constitution.⁷

³ Indian Constitution, art 20. Cl 3.

⁴ Nishtha Garhwal, *Right to self-incrimination and forensic science : a critical study*, IPLEADERS (Aug. 14, 2024, 02:00 PM) <https://blog.ipleaders.in/right-self-incrimination-forensic-science-critical-study/>.

⁵ Kalawati Vs State of Himachal Pradesh, AIR 1953 SC 131.

⁶ V.S. Kuttan Pillai Vs Ramakrishnan and another, AIR 1980 SC185.

⁷ State of Bombay Vs Kathi Kalu Oghad and others, AIR 1961 SC 1808.

LEGAL PROVISIONS:**Reference with old Indian Evidence Act 1872, Bharatiya Sakshya Adhiniyam 2023**

As per section 39 (1) of The Bharatiya Sakshya Adhiniyam, 2023 and section 45 of Indian Evidence Act 1872 - When the Court has to form an opinion upon a point of foreign law or of science or art, or any other field, 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 any other field, or in questions as to identity of handwriting or finger impressions are relevant facts and such persons are called experts.⁸

As per section 40 of The Bharatiya Sakshya Adhiniyam, 2023 and section 46 of Indian Evidence Act 1872. - Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.⁹

From the above sections it is highlighted that,

To know about the technical or scientific facts during the investigation or trial process, the court can place faith on the skilled person (experts). We could understand that the opinion the experts were helpful to uphold justice. Hence, the experts were the part of criminal justice administration.

NEED OF FORENSIC EVIDENCE IN CONTEMPORARY SITUATION:

The criminal investigation must adopt the forensic science in this contemporary situation. The large number of murder and rape trials were ended in acquittal due to lack of proper investigation and evidences. These repeated acquittals allow the criminal to live in the society along with the innocent people which is a huge threat to the society¹⁰. The innocents were confined behind the bars as the result of the improper investigation. The justice is there, where the guilty is punished according to the law and for that, an investigation without any lacunae it must. To

⁸ The Indian Evidence Act, 1872, No.1 Acts of Parliament 1872. & The Bharatiya Sakshya Adhiniyam, 2023, No.47, Acts of Parliament 2023.

⁹ The Indian Evidence Act, 1872, No.1 Acts of Parliament 1872. & The Bharatiya Sakshya Adhiniyam, 2023, No.47, Acts of Parliament 2023.

¹⁰ R.P Sharma, *Truth Detecting Techniques vis-à-vis Physical Evidence*, KARNATAKA LAW JOURNAL, vol 4, at 36.

avoid the unwanted acquittals, wrongful conviction and to render justice the forensic evidence must be accepted by the court of law.

In the case of **D.K. Basu vs State of West Bengal**,

The court held that the scientific methods of investigation and interrogation can be adopted to avoid the custodial torture.¹¹

In the case of **State by the Inspector of Police vs Manoharan**,

In the case the DNA forensic was helpful to convict the culprit to death sentence, who killed and threw the body of victim in a canal after a gang rape of a minor school girl.¹²

In the case of **Vishal Yadav vs State of UP**,

This case is famously known as Nitish Katara murder case,

In this case the deceased victim was identified with the help of DNA Profiling by match the DNA of parents of the deceased person.¹³

ADMISSIBILITY OF FORENSIC EVIDENCE:

The Forensic evidence plays an important role in criminal justice administration to render justice. These Forensic evidences were mostly collected in the scene of occurrence and from the suspected person and the victim of the crime. The forensic evidences like clothes, blood stain, seminal stain, hair and other biological fluids were helpful to find out the culprit and the victim in crimes.¹⁴

In India, the court of law seeks the help of experts while dealing with the forensic evidences. The forensic experts act as the amicus curie i.e friend of the court. The forensic evidence will be admissible based on the transparency, accuracy and reliability of the evidences. The court will not undertake the evidence if they are in non-consonance with the facts of the case. The evidences will not be admitted by the courts if it is not as per the procedure of legislation. The

¹¹ D.K. Basu vs State of West Bengal, AIR 1997 SC 610.

¹² State by the Inspector of Police vs Manoharan, AIR 2020 SC 3521.

¹³ Vishal Yadav vs State of UP, (2011) 6 SCC 396.

¹⁴ Nisha Kumari, *Forensic Evidence and Their Admissibility*, INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION, Vol 2, Issue 2, (2020) at 769.

forensic evidences will be admitted as an evidence only on the grounds of transparency, reliability and accuracy.¹⁵

In the case of **Magan Bihari Lal vs The State of Punjab**,

In this case the conviction on basis of expert evidence has been struck down and set aside and the court directed that received expert opinion must be with caution.¹⁶

SUGGESTION:

- A) Appropriate training must be provided to the police officers regarding collection of forensic evidences.
- B) Forensic investigation kits must be provided to every police station.
- C) Forensic officers should be employed in each and every police station to assist the police officers.
- D) The Judge who renders justice in the offence regarding murder, rape etc. must be trained about the forensic evidences.

CONCLUSION:

The main reason for using the forensic evidence in the criminal justice administration is to avail fair justice. This prevent the innocent from wrong conviction and helpful to find the actual culprit. As per the Locard's principle the offender leaves evidences at the crime scene, on victims and other articles like hair, fingerprints, blood stains, seminal stains and other body fluids. These materials were helpful to identify the victims and culprits in the crime investigation. The forensic techniques were helpful to reduce the delay and speed up the process of delivering the justice. Even though there are some flaws in admissibility of the forensic evidence, it is much helpful to render justice in the current situation.

¹⁵ Nisha Kumari, *Forensic Evidence and Their Admissibility*, INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION, at 769.

¹⁶ Magan Bihari Lal vs The State of Punjab, AIR 1977 SC1091.