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# Evidentiary Value of Blood Stain Report and DNA Report under Indian Judiciary

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## ABSTRACT

*The application of science and scientific technicalities to law for to find a solution to the problems and crimes are termed as Forensic science. Normally these techniques are regularly used by Scientific experts, examiners, crime investigators etc....for crime investigation, and examination of suspected documents, digital files, finger prints, blood stains and other evidences.*

*On the basis of such examination, that expert makes scientific reports which have a greater importance under Indian judicial system. Sec 45 of Indian Evidence Act appreciated and accepts. All forensic methods for individualization—fingerprints, dental impressions, striations on bullets, hair and fiber comparisons, voice spectrograms, neutron-activation analysis, blood-grouping and serum-protein and enzyme typing, as well as DNA profiling—demand an ability to match samples with reasonable accuracy with respect to characteristics that can help to differentiate one source from another. If such evidence is to be useful in court, scientifically acceptable procedures must permit the reliable measurement and comparison of physical features. Likewise, a scientific basis must exist for concluding that properly performed comparisons can distinguish possible sources.*

## I. DEFINITION

According to one definition, the word “forensic” means the application of scientific knowledge to legal problems. The term “forensic science” refers to a group of scientific disciplines which are concerned with the application of their particular scientific area of expertise to law enforcement, criminal, civil, legal, and judicial Matters.<sup>2</sup>

### Section 45 of Indian Evidence Act:

Section 45 of Indian evidence Act 1872- When the Court has to form and 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

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<sup>2</sup>Chadda R.K (2013), rhetorical evaluations in psychological medicine, Indian Journal of psychological medicine, pg. no 393-399, Kaestle Frederika A,

questions as to identity of handwriting or finger impressions are relevant facts. Such persons are called experts. These experts provide witness testimony reports, other evidences examination reports etc to help the investigators.

Reading sec 45 along with sec 46 says that;

1. Whenever it of necessary, the court will get helps of scientific experts and use the scientific techniques to find a solution.
2. The court will accept their reports and opinions only when it is relevant, clear and unambiguous.

Through this way, the experts are also playing a vital role in the administration of judiciary.

Among the medical evidences, blood stain reports and DNA reports have a greater importance. Because such reports had helped in many cases to find the culprits.

## **II. BLOOD STAIN REPORTS AND ITS EVIDENTIARY VALUE**

Whenever a crime or accident occurs, the police will first collect the bloodstains from the clothes of the victim, culprit or from the crime scene before it decomposes. This is normally done for to examine the blood stains scientifically. The science can say the age or how old the blood stains are by looking its colour. Anyway the consideration of bloodstains evidences is not a new concept, it exists from 1990's. But what differs now is that it became more advanced and developed. Concepts like DNA examination and all are getting more importance these days.

Actually the Human Blood contains 3 parts or blood cells that square measure suspended inside plasma. The 3parts square measure erythrocytes, leukocytes, and trombocytes. Plasma makes up regarding fifty fifthof blood. The remaining forty fifth is that the blood cells. as a result of plasma is a smaller amount dense than the blood cells, it is simply separated. **Bloostain Patern Analysis [BPA]:** this includes a scientific study or analysis of bloodstains collected from violent crimes scenes with a atomic number 11 object to assist the investigators to derive a conclusion to the cases. This analysis applies knowledge base from alternative fields to resolve sensible issues. This discoloration pattern analysis embody the scientific disciplines of biology, chemistry, arithmetic and physics. If associate degree analyst follows a scientific method, this engineering science will manufacture sturdy, solid proof, creating it an efficient tool for investigators, though care will have to be compelled to be taken once wishing on discoloration pattern analysis in criminal cases.

Characteristics of blood spatter flights: the conducted researches and studies says that form|the form} of a blood drop are going to be sphere rather the teardrop shape. the rationale behind this form is that the physical phenomenon that binds the molecules along. This helps the consultants to seek out the angle of incidence or impact once it hits with a surface. This angle will confirm the “Point of Origin” or space of origin. purpose|the purpose} of origin is that the point from that the blood drop took its birth. unremarkably the consultants examines several such blood spatters to derive a conclusion. The determination of the angle of impact or space of origin are going to be supported the no. of blood stains collected from the crime scene. Determination of angle of impact: the important form of a blood driblet is periodic sphere. however once it hits with a surface it becomes blood stain from that the consultants can notice the angle of impact or incidence. This analysis is completely supported the link between axis, minor axis, and angle of impact or incidence.

### **III. DNA TESTING AND ITS EVIDENTIARY VALUE**

Deoxyribonucleic acid stands for polymer. deoxyribonucleic acid was discovered in 1869 by a Swiss human Frederick Miescher. Sir Alec. J. Jeffereys discovered the utilization of deoxyribonucleic acid for rhetorical analysis in 1984. It was initial utilized in England by the police within the illustrious Enderby case involving 2 ladies UN agency had been raped and dead. deoxyribonucleic acid profiles square measure ordinarily used for to spotsomeone and his lineage in each civil and criminal cases. the most advantage of this take a look at is that, it isthrough with tiny samples, however its accuracy level are going to be terribly high which may establish their originals with a better degree of certainty.

Deoxyribonucleic acid of all humans square measure stable in nature, in order that it poses a larger resistance to degradation and environmental changes. due to this reason, the biological materials like hair, soft and arduoustissues, dry blood stains, sperms etc of somebody's body can keep unchanged for a protracted periods and these is used for deoxyribonucleic acid testing. The deoxyribonucleic acid collected from from crime scene or frombody will relate the case from one person to a different person. Therefore, this system is often utilized in severalcases like rape, murder, identification of kid or parents, immigration, assignment, infanticide, paternity disputes, kidnapping, exchange of babies and abortion.

These days, DNA test reports are highly reliable and having a great evidentiary value before the court. In order to accept a DNA report as an evidence, it must be very strong and clear. The laboratories which conducts such tests must have advanced equipments. Such reports are commonly used in the cases where no eyewitnesses are available.

At present, the forensic field is much advanced and developed so other than what mentioned above now a days semen, bones, saliva etc are also used for DNA analysis. But still this testing is limited cases because in most of the cases, what could be analysed is unrecovered and unanalyzed. But in all sexual assault cases, these tests are legislatively mandated. Evidentiary value under Indian Judiciary: The Indian courts accepts the DNA test reports as evidences only if it is strong, clear, unambiguous and conclusive upto 99% if positive and 100% if negative.

#### **IV. LEGAL PROVISIONS RELATING TO CRIME DETECTION AND DNA TECHNOLOGY**

Though there's no specific desoxyribonucleic acid legislation enacted in Republic of India, Sec.53 and Sec. fifty four of the Criminal Procedure Code, 1973 provide for desoxyribonucleic acid tests impliedly and that they square measure extensively employed in crucial advanced criminal issues.

Sec. 53 deals with examination of the defendant by medical man at the request of policeman if theresquare measure cheap grounds to believe that AN examination of his person can afford proof on the commission of the offence.

Sec.54 of the Criminal Procedure Code, 1973 additional provides for the examination of the inactive person by the registered medical man at the request of the inactive person. The law commission of Republic of India in its thirty seventh report expressed that to facilitate effective investigation, provision has been created authorizing An examination of inactive person by a medical man, if from the character of the alleged offence or the circumstances underneath that it's purported to are committed, there square measure cheap grounds for basic cognitive process that AN examination of the person can afford proof.

Sec. 27(1) of bar of terrorist act Act, 2002 says once a investigation officer request the court of CJM or the court of CMM in writing for getting sample of hand writing, finger prints, foot prints, pictures, blood, saliva, semen, hair, voice of any accused person, reasonable suspect to be involved in the commission of an offence under this act. It shall be lawful for the court of CJM or the court of CMM to direct that such samples shall be given by the accused person to the police officer either through a medical practitioner or otherwise as the case may be.

#### **Suggestions provided by the Malimath committee report:**

1. Sec. 313 of the CR.P.C must also be amended so as to draw adverse inference against the accused if he fails to answer any relevant material against him.

2. A specific law should be enacted giving guidelines to the police setting uniform standards for obtaining genetic information and creating adequate safeguards to prevent misuse of the same.
4. More well-equipped laboratories should be established to handle DNA samples and evidence.
5. Efforts should be taken to create more awareness among general public, Prosecutors, judges and police machinery.

## V. RELATED CASE LAWS

### 1. *Vasu vs Santha 1975 (Kerala) and Gautam Kundu vs State of West Bengal.*

In the above cases the court has laid down certain guidelines regarding DNA tests and their admissibility to prove parentage.

(1) The court must carefully examine as to what would be the consequence of ordering the blood test; whether it will have the effect of branding a child as a bastard and the mother as an unchaste woman.

(2) No one can be compelled to give sample of blood for analysis. Further the court said Blood-grouping test is a useful test to determine the question of disputed paternity. However, it requires to be carefully noted no person can be compelled to give sample of blood for analysis against his/her will and no adverse inference can be drawn against him/her for this refusal.

2. Where conflicting views have been expressed in different books on Medical Jurisprudence, the conflict can be resolved by preferring the more specialised book on the subject. (*Mahendra Manilal Nanavati v. Sushila Mahendra Nanavati*,)<sup>3</sup>.

3. In this case, the accuseds blood stains are collected from the scene. The accused was acquitted of the charge of murder *Surinder Singh v. State of Punjab* <sup>4</sup>. If the blood stains on the dress of both parties are same, then it very clearly shows that both are related to the incident. *Binder Munda v. State* <sup>5</sup>

4. It cannot be laid down a general proposition that in the absence of determination of blood group the find of human blood on the weapon or garment of the accused is of no consequence *Khujji v. State of M.P.* <sup>6</sup>

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<sup>3</sup> AIR 1965 SC 364 at p. 380

<sup>4</sup> 1989 SCC (Cri) 649; 1989 ACC 382:(1989) Supp (2) SCC 21

<sup>5</sup> 1992 Cr.L.J. 3508 Ori. (DB).

<sup>6</sup> 1991 Cr.L.J. 2653 (SC)

5. The postmortem report normally given by a doctor wont be having any evidentiary value if it is not examines properly, (*S.R. Singh v. State* <sup>7</sup>, *Mohan Singh v. Emperor* <sup>8</sup>, *State v. Rakshpal Singh* <sup>9</sup>, *Ram Pratap v. State* <sup>10</sup>, *Ram Balak Singh v. State* <sup>11</sup>, *confer Mellor v. Walnesley* <sup>12</sup>, *Hadi Kisani v. State* <sup>13</sup> *Krushna v. State*

6. wherever the medical practitioner World Health Organization conducted the post-mortem examination isn't examined in court nor the post-mortem report is tendered obvious, identical can not be used as substantive proof. *Gofur tribal sheik v. State* <sup>14</sup>

7. The report of the doctor should be stuffed within the Court. The contents of the report contained within the testimony of another person aren't allowable obvious. *Mohd. Ikram Hussain v. State of U.P* <sup>15</sup>

There is a agreement that medical and rhetorical proof plays an important role in serving to the courts of law to reach logical conclusions.

## VI. CONCLUSION

There is a accord that medical and rhetorical proof plays a vital role in serving to the courts of law to gain logical conclusions. All reports wil not be having any evidentiary value, it wil get such a value only if it is properly examined by a Doctor. Within the lightweight of latest developments within the rhetorical science, the house ministry, Govt. of Republic of India accepted a committee beneath the situation of Dr. Justice V.S Malimath to counsel reforms within the criminal justice system. This committee instructed comprehensive use of rhetorical science in crime investigation consistent with the committee deoxyribonucleic acid specialists ought to be enclosed within the list of specialists given in section 293(4) of I.P.C, 1973.

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<sup>7</sup> 1976-77eighty one CWN 724 at pp. 726-727 (DB)

<sup>8</sup> AIR 1925 All. 413 (DB).

<sup>9</sup> AIR 1953 All. 520

<sup>10</sup> AIR 1964 Pat. 62(DB)

<sup>11</sup> 1964(1) atomic number 24.L.J. 214

<sup>12</sup> 1905, 2Ch. 164 (CA

<sup>13</sup> AIR 1966Orissa 21

<sup>14</sup> 1984 Cr.L.J. 559 (Cal) (DB)

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