

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 3 | Issue 3

---

2020

© 2020 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [editor.ijlmh@gmail.com](mailto:editor.ijlmh@gmail.com).

---

# Evidentiary value of Forensic Fingerprints in India

---

CHINMAYANAND<sup>1</sup>

## ABSTRACT

*“Forensic Fingerprints” has become an increasingly important tool in the aid of legal systems around the world. It has contributed to meeting the ends of justice and making justice a little more just. This is especially true in the realm of criminal justice system. It has helped various investigative authorities and the courts alike in their endeavour to find the real culprit behind a crime scene. Forensic scientists across the world have been compelled to explore Forensic Fingerprints because, even the most astute and shrewd criminals, in many cases, leave their fingerprints, in crime scenes, which have been termed as “chance fingerprints”. In addition to this, “Forensic Fingerprints” has also gained the much deserved attention, for its accuracy and in the context of criminal justice system, for the heavy reliance placed on it by the prosecution to prove the guilt of the accused. This mandates the exploration of how such an important piece of events is perceived by the Courts. To this end this paper aims to explore this important area of Forensic Evidence, i.e., “Forensic Fingerprints” vis-a-vis how it is perceived by the Courts in India i.e. their evidentiary value in the Courts in India.*

**Keywords:** *Forensic Science, Forensic Evidence, Forensic Fingerprint, Fingerprint Expert, Expert Opinion, Evidentiary Value, Relevancy.*

## I. INTRODUCTION

Forensic science is made up of complex arenas pointing to the crossroads of science, law, policing, government and policy. It is a complex ecosystem, from which far reaching advancements have been strong forces to reckon with, because of its ability to deliver many demands of the justice system.

Forensic science, generally, is the application of the methods of the natural and physical sciences to matters of criminal and civil law.<sup>2</sup> It is applied in the investigation and prosecution of many crimes, including rape, murder, and has seen its application in civil matters as well, for instance in ascertaining the authenticity of a document, handwriting, etc. Almost all sciences are used in the study of Forensic Science, in solving a crime or evaluating

---

<sup>1</sup>Author is a student of Symbiosis Law School, Pune, India

<sup>2</sup> Siegel, J., 2017. Forensic Science. In: *Encyclopaedia Britannica*.

a civil harm (when a tort has been committed). In general, it can be argued that it is no different from the study of conventional sciences with the only condition here being that the methods, tools, and techniques studied here are applied in the legal system.

Closer to home, the Supreme Court of India has acknowledged the need to employ various Forensic Science tools available, from science and technology, in the legal system.<sup>3</sup> Among the various categories of Forensic Science, some of them are Questioned Documents, Ballistics, and Forensic Fingerprints.<sup>4</sup>

Usage of Forensic Science as evidence has become an increasingly important Forensic tool used by the prosecution in their goal of establishing the guilt of an accused. This is, among other reasons, owing to their accuracy. While not all Forensic tools are equally accurate, they have, nonetheless, become a persuasive piece of evidence in Courts across the country.

This is especially true for the tool of Forensic Fingerprints<sup>5</sup> because despite many precautions taken by shrewd criminals, in the crime scenes, to avoid criminal conviction, fingerprints, having been observed in many crime scenes (chance fingerprints), have helped in finding the criminal behind a criminal offence. However, not always was the alleged “criminal” (as alleged by the prosecution), evidenced upon his/her fingerprints (as fingerprint evidence), the actual criminal. This goes to the roots of how this particular piece of important evidence is perceived by Courts in India.

So, this paper aims to explore the evidentiary value of Forensic Fingerprints in India. In doing so, experts in this regard have been explored and the evidence, in the Courts, itself has been discussed.

## II. RESEARCH METHODOLOGY

This paper has predominantly done a case law analysis, by choosing relevant and important cases, which have far reaching impact on how the lower courts in India, particularly the trial courts deal with the evidence of Forensic Fingerprints.

In academic terms, this paper is doctrinal in nature. While research papers of diverse nature are relied on, albeit not all are cited owing to reliance on them mostly limited to reading and understanding of the concept by the researcher, the primary reliance is upon case laws dealing with the subject.

---

<sup>3</sup>*Ritesh Sinha v. The State of Uttar Pradesh and Ors.*, (2013) 2 SCC 357, in Para 52.

<sup>4</sup>Setia, H, *Evidentiary Value of Forensic Reports in Indian Courts*, Vol. 4(6), Research Journal of Forensic Sciences, 1-7 (2016)

<sup>5</sup>The words Fingerprints and Forensic Fingerprints have been used interchangeably, subsequently

### III. FORENSIC FINGERPRINTS VIS-À-VIS THEIR EVIDENTIARY VALUE

The principles which primarily guide the courts in accepting forensic evidence is relevancy and admissibility. So, the same is applied for Forensic Fingerprints as well. It is around these two principles that Forensic Fingerprints are considered and their evidentiary value measured.

Although in reality, the word “admissibility” has been rarely used in the Indian Evidence Act and the two have been virtually equated under the Act<sup>6</sup>. The emphasis, under the Act, is on relevant facts<sup>7</sup>. Thus, it is the court, while considering relevant facts, determines the relevancy and admissibility of a particular evidence, including that of Forensic Fingerprints.

The relevant laws with respect to Forensic Fingerprints are The Indian Evidence Act, 1872 and The Identification of Prisoners Act, 1920. Under the Identification of Prisoners Act, 1920, extensive powers are given for the collection of “measurements”, which include finger impressions and foot-print impressions<sup>8</sup> (This law will be elaborated upon and discussed subsequently with the help of case laws)

Under *Section 73 of the Indian Evidence Act, 1872*, the Courts have the power to direct any person in the Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person. *This section applies also, with any necessary modifications, to finger-impressions.*<sup>9</sup>

Additionally, with respect to Fingerprint experts, the admissibility of their testimony is dealt with, in the Indian Evidence Act, 1872, under Part I (Relevancy of Facts), specifically under “Opinions of Third Persons, When Relevant” under Chapter II (Of the Relevancy of Facts) Part I. Here, the relevant provisions are Section 45 and 51. The relevant provisions of the law, under this Chapter, with respect to a Fingerprint expert is discussed in the first subsection of this section.

Before analysing important case laws dealing with the subject, it is pertinent to talk about the evidentiary value of a Fingerprint expert. So, this section will start with discussing the evidentiary value of a Fingerprint expert in brief and then discuss the evidentiary value of Forensic Fingerprints itself.

#### (A) FINGERPRINT EXPERT

---

<sup>6</sup>*Musheer Khan v. State of M.P.*, (2010) 2 SCC 748

<sup>7</sup>*Musheer Khan v. State of M.P.*, (2010) 2 SCC 748

<sup>8</sup>Section 2(1)(a), The Identification of Prisoners Act, 1920

<sup>9</sup>Section 73, The Indian Evidence Act, 1872

Under **Section 45**, when the opinion of a Fingerprint expert becomes relevant when the Court has to form an opinion upon a finger impression. In this case, the opinion of such expert becomes a relevant fact. Besides Fingerprint expert, this section also covers those cases where the Court has to form an opinion upon a point of foreign law or of science or art, or as to identity of handwriting. It is worth mentioning that the word “finger impressions” was added in 1899. Under **Section 51**, whenever the opinion of any living person is relevant, the grounds on which such opinion is based also becomes relevant. Under **Section 159**, an expert may also refresh his/her memory by reference to professional treatises.

Expert witness have an advantage of a particular skill or training since Judges are not properly equipped to draw inferences from facts in certain technical matters. Expert evidence is sought most obviously in disputes regarding detailed scientific or technical knowledge. The purpose of an expert opinion is primarily to assist the court in arriving at a final conclusion. Such report (of the expert) is not binding upon the court where the eye witnesses and other prosecution evidence are trustworthy, have credence and are consistent with the eye version given by the eye witnesses, the court will be well within its jurisdiction to discard the expert opinion. In such case, court has to critically examine the basis, reasoning, approach and experience of the expert, to come to a conclusion as to which of the reports can be safely relied upon.<sup>10</sup>

The determination of the quality of opinion of a Fingerprint expert, not unlike any other expert, is dependant upon the soundness of the reasons on which it is founded.<sup>11</sup> Importantly, the evidence of a Fingerprint expert is not substantive evidence and can only be used to corroborate some items of substantive evidence which are otherwise on record.<sup>12</sup> Importantly, while in many cases, experts are examined in the Court, this becomes especially important if the report of the Fingerprint expert is vague and ambiguous and the non-examination of him/her in such cases definitely renders his/her opinion unreliable.<sup>13</sup>

Moreover, even in cases where it is found that the opinion of the Fingerprint expert is free from any infirmity, if the fingerprints have been obtained in suspicious manner (such suspicious manners will be discussed in the subsequent sub section), such expert opinion will become unimportant.<sup>14</sup>

---

<sup>10</sup>*Ranjit Singh Brahmajeet Singh Sharma v. State of Maharashtra*, (2005) 5 SCC 294

<sup>11</sup>*State of Maharashtra v. Sukhdev Singh*, (1992) 3 SCC 700, Para 29. Additionally, under Section 51, the grounds of the expert opinion is also relevant.

<sup>12</sup>*Musheer Khan v. State of M.P.*, (2010) 2 SCC 748

<sup>13</sup>*Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1

<sup>14</sup>*Chandran v. State of Kerala*, 1991 Supp (1) SCC 39

In case of two experts (one brought by both parties/sides), the Court has an enormous duty upon itself to scrutinize both of them and the Fingerprints themselves with a magnifying glass and not merely leave the matter merely saying that it was difficult to prefer one of the report.<sup>15</sup>

With respect to Section 73, in absence of any expert, the court can call for an expert<sup>16</sup>, but it must reach its own conclusion on the basis of its own findings and not that of the expert<sup>17</sup>. Finally, the expert opinions are expected to be heavily scrutinised in courts and rightly so and an “expert” is only an expert if he/she follows the well-accepted guidelines to arrive at a conclusion and supports the same with logical reasoning.<sup>18</sup>

### **(B) THE EVIDENTIARY VALUE OF FORENSIC FINGERPRINTS**

The fingerprint in this context is used to describe the friction ridge<sup>19</sup> arrangement present on the tips of the fingers when an impression is deposited on a touched surface.

Fingerprint as Forensic Evidence is important because of the unique and permanent features. This section does not discuss patterns, classifications and the various advancements in the field of Forensic Fingerprints. In this subsection, Forensic Fingerprints, as under the Identification of Prisoners Act, 1920 and The Indian Evidence Act, 1972, are discussed.

Since it is a very important piece of evidence, it has to be considered very carefully by the Courts. Fingerprint experts are an inevitable and important aid at the Court’s disposal. There is ample literature in terms of case laws which assert the importance of Fingerprint in a case, and the need to ensure that the Fingerprint expert is scrutinised properly and the Fingerprints are, as well. For instance, in *Bhaluka Behara and others v. State*<sup>20</sup>, while it was acknowledged that the science behind Forensic Fingerprints has developed to stage of exact science, the main thing to be scrutinised is whether the Expert's examination is thorough, complete and scientific.

It is another well settled legal position that giving thumb impressions or impressions of foot or palm or fingers or specimen writings are not included in the expression ‘to be a witness’ against himself/herself<sup>21</sup> as under Article 20(3) of The Constitution of India, 1950. This

---

<sup>15</sup>*Public Prosecutor v. Virammal*, AIR 1923 Mad 178

<sup>16</sup>*State (Delhi Administration) V Pali Ram*, (1979) 2 SCC 158

<sup>17</sup>*State (Delhi Administration) V Pali Ram*, (1979) 2 SCC 158

<sup>18</sup>*Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1, Para 178

<sup>19</sup> Friction ridge skin is present on the palmar and plantar surfaces of the hands and feet. As such, impressions from the fingers and palms of the hands as well as the toes and soles of the feet can all be used for personal identification purposes.

<sup>20</sup> AIR 1957 Orissa 172

<sup>21</sup>*The State of Bombay v. Kathi Kalu Oghad and Ors.*, AIR 1961 SC 1808

position has been reiterated subsequently and further, even compelling an accused to give his/her fingerprints, by the Police, is out of the purview of Article 20(3).<sup>22</sup> So, with these two settled positions in mind, the following discussion on the Identification of Prisoners Act, 1920, is sought to be analysed.

The Statement of Objects and Reasons of the Identification of Prisoners Act, 1920 makes it clear that the reason for passing a law of the kind is to remedy the mischief which was, the system by which the police in India took finger impressions, photographs, etc., of criminals and suspected criminals was void of legal sanction<sup>23</sup>. The purpose for enacting the law can be found in the last lines, of the Statement of Objects and Reasons, which make it clear that the purpose of having a law of such kind is to prevent refusals made by prisoners in giving their fingerprints (considering the reports where prisoners have refused to allow their finger prints or photographs to be taken). Thus, the purpose of having such a law was to prevent such refusals by *prisoners*.

Under the Act, “fingerprints” are included in the term “measurements”<sup>24</sup>, along with footprint impressions and the term “measurements” is used throughout the Act to denote fingerprints (and footprint impressions).

**Section 3** stipulates that every person, convicted of any offence punishable with rigorous punishment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction, if so required, shall allow for his “measurements” and photograph to be taken by a police officer in the “*prescribed manner*”.

**Section 4**, which deals with taking “measurements” of non-convicted persons, stipulates that any arrested person in connection with an offence with the same punishment as that under the purview of Section 3 (with rigorous imprisonment for a term of one year or upwards), shall, if so required by a police officer, allow his “measurements” to be taken in the prescribed manner.

It is important to note from the above two sections that there is virtually no difference in terms of the wording of the two sections, between an accused person and a convicted person, specifically with respect to the “manner” in which it is to be performed.

**Section 5**, on the other hand, deals with the power of the Magistrate (only a Magistrate of First Class has such power<sup>25</sup>, except in Gujarat and Maharashtra) to order a person for his/her

---

<sup>22</sup>State of U.P. v. Sunil, (2017) 14 SCC 516

<sup>23</sup>Sonvir v. The State of NCT of Delhi, (2018)8SCC24

<sup>24</sup>Section 2(1)(a) of The Identification of Prisoners Act, 1920

<sup>25</sup> Proviso to Section 5 of The Identification of Prisoners Act, 1920

“measurements” (and photograph) to be taken. It stipulates that a Magistrate can make an order for an arrested person’s (arrested in connection with the investigation or proceeding under the CrPC, 1898) “measurements” (and photograph) be collected if he/she is satisfied that it is expedient to so for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1898.

Thus, from the above *mere* explanation of the relevant provision it is clear that the Police has been conferred with independent powers, under Section 4, to collect fingerprints without approaching the Magistrate under Section 5 of The Identification of Prisoners Act, 1920. Moreover, this has been accepted to be the correct legal position as well, in *Sunil Kumar v. State of NCT of Delhi*.<sup>26</sup>

So, under the aforementioned Act, the effect is that the Police, without any order from the Magistrate, can take the fingerprint of any accused person that they have arrested. This has consequences manifold and important considerations, which the courts need to keep in mind, those of which will be explained with the help of the following cases. Such apprehension is further cemented owing to the lack of any “prescribed manner” in which the Police must collect the evidence (and under Section 8, the word ‘may’ with respect to the Power of the State Government’s power to make rules for the purpose of carrying into effect the provisions of this act, only make matters worse).

This brings us to dealing with particular case laws to explain the afore discussed law. The position taken by the Delhi High Court<sup>27</sup> that “only when by way of Rules or executive instruction, the manner is prescribed to take the measurements then alone an Investigating Officer, under Section 4 of The Identification of Prisoners Act, 1920, can obtain the measurements” (without the order from a Magistrate) does not hold weight anymore owing to the Supreme Court case of *Sonvir v. The State of NCT of Delhi*<sup>28</sup>, which disagreed with such proposition, and held that non-framing of any rules under Section 8 by the State Government does not prohibit the exercise of powers given under Sections 3 and 4 of the Act. It also held that, although Sections 3 and 4 are adduced with the condition of “prescribed manner”, in a case where no such manner has been prescribed, by way of Rules, the authorities as empowered under Sections 3 and 4 are not denuded of their powers to act under Sections 3 and 4; “Absence of rules under Section 8 does not mean that Magistrate's permission is

---

<sup>26</sup> 2010 SCC OnLine Del 132

<sup>27</sup> *Sapan Halder and Anr. v. State*, 191 (2012) DLT 225

<sup>28</sup> (2018) 8 SCC 24, in this case, before reaching the Supreme Court, the Delhi High Court, relying on *Sapan Halder* case, discarded the fingerprint evidence of the accused owing to the lack of rules for collection in the “prescribed manner” and the violation of Section 5 of The Identification of Prisoners Act, 1920)

mandatory".<sup>29</sup>

While the afore discussed discussion clearly points to arbitrary power, that which is easily vulnerable to abuse, given to the Police, the following case laws, in addition to the aforementioned case law of *Sonvir v. The State of NCT of Delhi*<sup>30</sup>, point to the idea that such propositions, of it being entirely legal for the Police to use such power, is not applied in such black and white terms in the Courts.

In *Sonvir v. The State of NCT of Delhi*<sup>31</sup>, while they did not agree with the proposition of *Sapan*<sup>32</sup> and agreed with the proposition that authorities empowered under Section 3 and 4 can proceed under those sections without any Magistrate's order, Justice Ashok Bhushan did not hold back from referring to an important case law in this regard, i.e., the decision in *Mohd. Aman v. State of Rajasthan*<sup>33</sup>, and holding that it would be eminently desirable to follow that decision of following the procedure ordained under Section 5 of the Identification of Prisoners Act, 1920.

In *Mohd. Aman v. State of Rajasthan*<sup>34</sup>, there was a glaring missing link that the prosecution failed to establish, in the circumstances of that case, according to the Supreme Court. That missing link was that it had failed to establish that the seized articles were not-or could not be-tampered with before it reached the Bureau for examination<sup>35</sup>. The seized article in this case is a brass jug, on which the accused's fingerprints were found (chance fingerprint), which was confirmed as such by the Forensic Bureau. Moreover, an important consideration, in the Court's opinion, was that accused was in police custody at the time of search and seizure thereby not ruling out the possibility of fabrication of evidence; "the possibility of fabrication of evidence to implicate him cannot be ruled out"<sup>36</sup>. Consequently, it held that in such circumstances, the evidence relating to fingerprints (and footprints) cannot be safely relied. Finally, the Supreme Court, while acknowledging that the Police is competent to take specimen fingerprints of the accused, held that, "to dispel any suspicion or to eliminate the possibility of fabrication of evidence, they should be taken before or under the order of a Magistrate."<sup>37</sup> This becomes especially important if the Court finds that the Fingerprint was

---

<sup>29</sup>*Sonvir v. The State of NCT of Delhi*, (2018) 8 SCC 24, Para 48

<sup>30</sup>(2018)8SCC24

<sup>31</sup>(2018) 8 SCC 24

<sup>32</sup>191 (2012) DLT 225

<sup>33</sup> (1997) 10 SCC 44

<sup>34</sup> (1997) 10 SCC 44

<sup>35</sup>*Mohd. Aman v. State of Rajasthan*, (1997) 10 SCC 44, Para 8

<sup>36</sup>*Mohd. Aman v. State of Rajasthan* (1997) 10 SCC 44, Para 9

<sup>37</sup>*Mohd. Aman v. State of Rajasthan*, (1997) 10 SCC 44, Para 8

not given by the accused voluntarily but unwittingly and was taken in a deceitful manner.<sup>38</sup>

In *Rohit Dhingra and Ors., v State*<sup>39</sup>, the lifting of alleged fingerprints was found to be highly susceptible to suspicion because, while the report of the expert claimed that the palm prints of the accused matched with what was found on the evidence in question (beer bottles), the prosecution did not establish when and who precisely took the specimen prints for matching purposes. Additionally, in the Trial Court, not a single prosecution witness deposed about when and how the specimen finger prints and palm prints were secured from the accused. Thus, it was ruled that it would be unsafe to rely on such report of the fingerprint expert.<sup>40</sup> Thus, as aforementioned credibility as to *bonafide* nature seems to go unquestioned if done before a Magistrate.<sup>41</sup>

Finally, recently in *Ashish Jain v Makrand Singh*<sup>42</sup>, when the accused's fingerprints were obtained in the absence of a Magisterial order to that effect, such absence of a Magisterial order was held to have cast doubts as to the credibility of fingerprint evidence. Additionally, reiterating the position in *Mohd. Aman v State of Rajasthan*<sup>43</sup>, the Supreme Court in this case, while accepting that the order of a Magistrate as required under Section 5 does not apply to Section 4, held that to dispel doubts as to its bona fides and to rule out fabrication of evidence, it is eminently desirable that they were taken before or under order of a Magistrate (another reiterated position)<sup>44</sup>. Thus, the Supreme Court, while it could not rule out the possibility of tampering and post facto addition of fingerprints, concurred with the High Court in discarding fingerprint evidence.

Thus, from the afore explained case studies, with respect to Forensic Fingerprint and the opinion of a Fingerprint expert, by law as laid down by the Supreme Court, trial courts must carefully scrutinise any fingerprint evidence which is under their purview in a given case. Besides the considerations as put forth above, doubtful recovery which was unexplained to the court, missing links between the identity of the articles seized and articles examined by the Fingerprint Bureau, expert testimony being doubtful, Failure and negligence of the investigating agencies to obtain evidence and resort to the proper technique<sup>45</sup>, possibility of changing the make of the fingerprint (*this was an interesting observation made by Justice*

---

<sup>38</sup>*Prakash v. State of Karnataka*, (2014) 12 SCC 133, Para 28

<sup>39</sup> 2012(2)JCC820

<sup>40</sup>*Rohit Dhingra and Ors., v. State*, 2012(2)JCC820, Para 13.

<sup>41</sup>*State of Punjab v. Jagga Singh*, (2015)2SCC471

<sup>42</sup>2019 SCC OnLine SC 37

<sup>43</sup> (1997) 10 SCC 44

<sup>44</sup>*Mohd. Aman v. State of Rajasthan*, (1997) 10 SCC 44

<sup>45</sup>*Amal Biswas v. State of West Bengal*, 2015 (2) CLJ(CAL) 106

*Banumathi in the 2012 Delhi Gang Rape case*<sup>46</sup>), are few other important considerations for the Courts to consider.

There are inherent conflicts, such as the evidence in question with chance fingerprints being with the police *and* the accused whole fingerprints are alleged to have been on such evidence in the custody of the police, with regard to which important changes, starting with clear rules as under *Section 8 of The Identification of Prisoners Act, 1920* by States across the country, changes in police accountability for fabricating the evidence and implicating the innocent, which need to be considered and acted upon.

#### IV. CONCLUSION

In this paper, the law with respect to Forensic Fingerprints has been analysed with the help of important case laws on this subject. As aforementioned, in India, under *The Indian Evidence Act, 1872*, principles such as reliability and admissibility have been virtually equated and the emphasis is on “relevancy”; relevant facts. So, the Courts ample power to measure a particular piece of evidence, in this case Forensic Fingerprint (s), in light of its relevancy.

Under *The Indian Evidence Act, 1872*, the opinion of a Fingerprint expert has been discussed and his/her evidentiary value has been explored. While an expert has an advantage of scientific and/or technical knowledge in this field and the Judges do not, this is no obstacle for Courts to scrutinize such experts using logic and judicial mind. Even experts are prone to making mistakes, and their opinions, while based on objective science, are in many cases prone to their own subjectivity. Moreover, while a Fingerprint expert certainly acts as to tool in the Courts’ aid, his/her report can be very easily disregarded if found suspicious and not up to the satisfaction of the Court.

The evidence of Fingerprints itself, is also expected to be explained properly by the prosecution in the chain of events in a criminal case. Suspicious ways of handling Fingerprints must not be overlooked by Courts. This is especially true in cases where the seizure, of particular piece of evidence which is alleged to contain the Fingerprint of an accused, happens while the accused is in the custody of the Police. The Supreme Court has, rightly discarded and not relied on the Fingerprint evidence in many cases with glaring missing links in their cases with respect to handling of the Fingerprint Evidence. Importantly, the shift in the judicial trend to casting doubts as to the credibility of Fingerprint Evidence in cases of absence of a Magisterial order with respect to the Police collecting Fingerprint

---

<sup>46</sup>*Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1, where she had observed that burning or cutting a finger can change the make of a fingerprint.

evidence and recognising the possibility of post facto addition of fingerprints is highly commendable.

While the case laws point to some development as to how Courts need to consider the Forensic Evidence in question, in light of the judgements of Supreme Court, there still need to be many important issues, such as independent investigative authorities, police accountability in tampering with evidence, which need heavy consideration and deliberation.

Furthermore, a centre akin to the Federal Judicial Centre, a research and education agency of the judicial branch of the United States Government, needs to be established in India, with dynamic updates as to latest findings in Forensic Science, considering how relevant Forensic Science has become in the criminal justice system.

Finally, despite the legislature refraining from amending laws such as *The Identification of Prisoners Act, 1920 and The Indian Evidence Act, 1872*, with clever wordings and technicalities affording the Police, among others, the opportunity to escape with wrong doing, judgements, of the Supreme Court with their dynamic interpretation and their vigilance as discussed above, give some hope as to the future of criminal justice system in India.

**Note:** *It has been deemed unnecessary, by the researcher, to include a "Literature Review" Section in this paper as it is primarily an analysis of case laws.*

\*\*\*\*\*

## V. BIBLIOGRAPHY

### A) STATUTES USED AND CITED:

- The Indian Evidence Act, 1872
- The Identification of Prisoners Act, 1920
- The Constitution of India, 1950

### B) RESEARCH PAPERS USED AND/OR CITED:

- Setia, H, *Evidentiary Value of Forensic Reports in Indian Courts*, Vol. 4(6), Research Journal of Forensic Sciences, 1-7 (2016)
- Morgan, RM, et al., *A systematic analysis of misleading evidence in unsafe rulings in England and Wales*, Vol. 40, Science and Justice, 128-137 (2018)
- Morgan, RM, *Conceptualising forensic science and forensic reconstruction. Part II: The critical interaction between research, policy/law and practice*, Vol. 57, Science and Justice, 460–467 (2017)
- Hamer, D, *The R v T controversy: forensic evidence, law and logic*, Vol. 11, Law, Probability and Risk 331–345 (2012)
- Areti, KK, *Evidentiary Value of Expert Opinion Under Indian Evidence Act*, SSRN Electronic Journal (2007)
- Dinkar, VR, *Forensic Scientific Evidence: Problems and Pitfalls in India*, Vol. 3(2), International Journal of Forensic Science and Pathology 79-84 (2015)

### C) CASE LAWS CITED:

- *Ritesh Sinha v. The State of Uttar Pradesh and Ors.*, (2013) 2 SCC 357
- *Musheer Khan v. State of M.P.*, (2010) 2 SCC 748
- *Ranjit Singh Brahmajeet Singh Sharma v. State of Maharashtra*, (2005) 5 SCC 294
- *State of Maharashtra v. Sukhdev Singh*, (1992) 3 SCC 700
- *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1
- *Chandran v. State of Kerala*, 1991 Supp (1) SCC 39
- *Public Prosecutor v. Virammal*, AIR 1923 Mad 178
- *BhalukaBehara and others v. State*, AIR 1957 Orissa 172

- *The State of Bombay vs. Kathi Kalu Oghad and Ors.*, AIR 1961 SC 1808
- *State of U.P. v. Sunil*, (2017) 14 SCC 516
- *Sonvir v. The State of NCT of Delhi*, (2018) 8 SCC 24
- *Sunil Kumar v. State of NCT of Delhi*, 2010 SCC OnLine Del 132
- *Mohd. Aman v State of Rajasthan*, (1997) 10 SCC 44
- *Ashish Jain v Makrand Singh*, 2019 SCC OnLine SC 37
- *Prakash v. State of Karnataka*, (2014) 12 SCC 133
- *Rohit Dhingra and Ors., v State*, 2012( 2) JCC 820
- *State of Punjab v Jagga Singh*, (2015) 2 SCC 471
- *State (Delhi Administration) V Pali Ram*, (1979) 2 SCC 158
- *Amal Biswas v. State of West Bengal*, 2015 (2) CLJ(CAL) 106
- *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1

\*\*\*\*\*