Forensic Evidence in Prosecution of Murder Cases: Recent Scenario

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Abstract-- Homicide and murder cases are everyday misfortune to know in each possible news. Due to population rise, the cultural values are rapidly decreasing and rate of crime is elevating. Considering recent crime scenario, forensic science plays a consequential role in detection of crime and provision of expert medico legal and scientific reports, which may result in quick case processing and immediate administration of justice to victims. Developments in science and technology have significantly expanded the role of scientific evidences in Criminal Justice System of India. How such evidences results in actual conviction at a trial is to be studied. On the basis of the available evidence, this is an attempt to assess the role played by the forensic evidence in the criminal justice processing and outcome of the homicide cases. These effects are examined within a context of cases prosecuted by Hon”ble Gujarat High court. The difficulties with scientific evidence can be identified and the area to work upon such difficulties may be recognized by such study.

Keywords-- Forensic evidences, murder cases, Criminal justice system, Gujarat State

I. INTRODUCTION

A. Brief Description of murder narrated in Indian Law

Homicide is the killing of one person by another. Murder is a form of criminal homicide where the perpetrator intended to kill the other person, sometimes with premeditation.

Murder as per Indian Penal Code

Section 300 defines Murder as whoever causes death by doing an act with

1. Intention of causing death.
2. Causing such bodily injury as the offender knows it is likely to cause death of person.
3. Intentionally causing bodily injury which is sufficient to cause death.
4. Doing act with knowledge that it is so imminently dangerous and in all probability causes death.

B. Types of Evidence and Forensic Evidence

Evidence refers to information or objects that may be admitted into court for judges and juries to consider when hearing a case.

Forensic evidence refers to items collected or information gathered using scientific methods for using in legal proceedings. There are many types of forensic evidence that can be obtained to help investigators resolve crimes.

On arrival at crime scene, the first thing the investigator do is secure the area to preserve any physical evidence. They want to ensure that the forensic evidence collected is not contaminated in any way. Depending on the type of crime and the location of the crime scene, the technicians may be required to gather samples of several items for analysis. Evidence comes in many forms, including testamentary, documentary, physical, and demonstrative. Some evidence is considered direct, also known as primary evidence, while other evidence is circumstantial, or indirect evidence [1]

a. Direct Evidences

Direct evidence is often used in court terminology to define evidence that forthrightly supports the guilt or innocence of a person on trial. This form of evidence can stand on its own, and does not require any presumption. Video, tape recordings, and some types of witness testimony can be used as direct evidence to support a claim.

b. Circumstantial Evidence

Circumstantial evidence requires inference to reach a desired conclusion. Circumstantial evidence can convince people to believe that someone is innocent or guilty, but by itself cannot prove that the event took place.

Scientific evidence is circumstantial, because it requires a jury to make a connection between the circumstances and the fact in issue. Hence, forensic evidences ordinarily play role as corroborative evidences. [1]

C. How Forensic Evidence can help Justice System?

Forensic science is defined as the science for the purpose of law. Any disciplines such as biology, chemistry, physics or engineering which can help in the evidence collection, preservation or analysis are included in forensic science. An expert in scientific field can perform analysis of the evidence and testify as expert witness in both criminal and civil cases. [2]

Analysis of forensic evidence is utilized in the investigation and prosecution of civil and criminal case proceedings. Often, it can avail to establish the culpability or inculpability of possible suspects. Forensic evidence is used to link crimes that are assumed to be associated to one another. Linking crimes aids law enforcement system to narrow the array of possible suspects and to establish modus operandi, which are used in recognizing and prosecuting suspects. [2]

D. Admissibility of Evidence according to Law in Indian Context

Some scientific evidence or expert witnesses are allowed to be presented in court and some are not. However, there is significant precedent that guides how these decisions are made. These are the three major sources that currently guide evidence and testimony admissibility: the Frye Standard, the Federal Rules of Evidence, Rule 702; and the Daubert Standard during United States federal legal proceedings. However, in India there is no special law with respect to general acceptance of admissibility of forensic evidence and expert’s opinion. [3]

Section 45 of the Indian Evidence Act is considered in this regard in India. It is the section dealing with the opinion of the expert. It states: ‘When the court has to form an opinion upon a point of foreign law, or science or art, or as to identity of handwriting or finger impressions, the opinions upon that point
of persons especially skilled in such foreign law, science or art are relevant facts. Such persons are called experts.’ [1]

The Courts have opined that medical evidence is only an evidence of opinion and is hardly decisive. It is not a substantive evidence. But they say that the opinion of the doctor who has held the postmortem examination and of the forensic science laboratory is reliable. The Supreme Court of India has further stated that unless there is something inherently defective in the medical report, The Court cannot substitute its own opinion for that of the doctor. [1]

In concluding numerous cases, forensic evidences are vital to attain the logical consequence. Whenever forensic evidence is put before judge or jury, it becomes crucial matter that the evidence is worth believing or not. The matter becomes more essential when any new scientific method or principal is to be considered as evidence in the court of law.

When evidence possess certain standards, it turn out to be admissible in the court. In every cases, evidence is considered admissible when it can be related with the case facts and can be used to support or refute the particulars. [4]

E. Examination and Impact of Physical Evidence

Scientific principles and techniques are able to retrieve information from the physical evidences left at the crime scene and help in determining what occurred at the scene and who was (or not) involved in the act. The forensic evidence can provide some important information and help in following ways:

Establishing an Element of the Crime – Scientific analysis can be used to identify any unknown material which can provide the clue that a crime transpired.

Identification of a Suspect or Victim- fingerprints and DNA testing are good examples of individual identification methods.

Associative evidence- Scientific finding can help form an association or linkage between the offender and the crime scene or victim.

Testing statements and alibis- Evidence may also test, verify or refute the statements of victims, suspects and witnesses.

Reconstructing the crime- the physical evidence may help determine how a particular crime occurred or to reconstruct the movements of offenders, victims, or instruments of an offense

Corroboration- Physical evidence may also corroborate (or refute) the information that investigators gather from witnesses. [5]

IV. STUDY RESULTS

A. Involvement of Forensic Evidence in Murder Cases

Table 1: Involvement of Forensic Evidence in Murder Cases

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Case Judgments</th>
<th>Murder Case Judgments</th>
<th>Murder Cases Involving Forensic Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>772</td>
<td>114 (14.76%)</td>
<td>13 (11.40%)</td>
</tr>
<tr>
<td>2012</td>
<td>804</td>
<td>161 (20.02%)</td>
<td>38 (23.60%)</td>
</tr>
<tr>
<td>2013</td>
<td>1414</td>
<td>442 (31.25%)</td>
<td>53 (11.99%)</td>
</tr>
<tr>
<td>2014</td>
<td>491</td>
<td>129 (26.27%)</td>
<td>33 (25.58%)</td>
</tr>
<tr>
<td>2015</td>
<td>1196</td>
<td>269 (22.49%)</td>
<td>17 (6.31%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4677</td>
<td>1115 (23.84%)</td>
<td>154 (13.81%)</td>
</tr>
</tbody>
</table>

Table-1 presents descriptive information regarding total judgments, judgments for cases under section 302, IPC and cases involving forensic evidences delivered by Honorable Gujarat high court during the period from January, 2011 to December, 2015. During this period, total 4677 judgments are delivered. Among which, 1115 judgments are for murder cases. Out of these 1115 judgments, 154 case proceedings have involved forensic evidences.

B. Type of Evidence and its Applicability

Table 2: Type Of Evidence And Its Applicability

<table>
<thead>
<tr>
<th>Type Of Evidence</th>
<th>Cases Where Evidence Involved</th>
<th>Cases Where Evidence Appreciated</th>
<th>Cases Where Evidence Withheld</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blood</td>
<td>135 (37.66%)</td>
<td>105</td>
<td>30</td>
</tr>
<tr>
<td>Bones</td>
<td>02 (1.30%)</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Ballistics</td>
<td>05 (3.25%)</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Other weapons</td>
<td>121 (78.57%)</td>
<td>118</td>
<td>3</td>
</tr>
<tr>
<td>Injury</td>
<td>98 (53.63%)</td>
<td>96</td>
<td>2</td>
</tr>
<tr>
<td>Seil</td>
<td>35 (22.72%)</td>
<td>15</td>
<td>20</td>
</tr>
<tr>
<td>Kerosene</td>
<td>20 (12.98%)</td>
<td>18</td>
<td>2</td>
</tr>
<tr>
<td>Ligature mark</td>
<td>05 (3.25%)</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Finger print</td>
<td>02 (1.30%)</td>
<td>2</td>
<td>0</td>
</tr>
</tbody>
</table>
Table-2 shows various types of evidences came across during the murder case trials. It throws light on the role played by these evidences in judgment outcome. Number of cases in which the different kind of forensic evidences are appreciated/withheld during case proceedings is shown in this table. Mainly blood, ballistic evidence, weapon, injuries on dead body, soil (blooded soil in most cases), kerosene (or other hydro-carbonic material used in burning cases), fingerprints and ligature mark in strangulation cases were discovered as forensic evidences. Blood was primary type of evidence collected in murder case. In 135 cases out of 154, blood was collected. Court appreciated blood evidence in 105 cases. The ballistic evidence was appreciated in 4 cases from 5 by court of law. Weapon was involved in 121 cases, and appreciated by court in 118 cases. Injury on the body is mostly mentioned in PM report and as per the study it was considered as evidence in 98 cases. Kerosene was collected as hydro carbonic material for chemical analysis in burning cases. Bones and fingerprints were found rarely, only in 2 cases.

Figure 1: Judgment delivered by Gujarat High Court (2011-2015)

Figure 2: Involvement of Forensic Evidence in Murder cases

V. DISCUSSION

Society come across huge number of crimes among which many get registered and some go unregistered. Registered cases pass through court proceedings. During last five years, 4677 judgments were delivered by hon’ble Gujarat High court. Among them 23.48% were for murder cases. Out of 1115 murder case judgments 154 involved forensic evidences during case trial which is 13.81%. As far as this study is concerned, most of the murders were committed using firearm or sharp weapons like knife, sickle, axe, “dhariyaa” etc. Others are strangulation and burning cases.

Blood was the most commonly collected evidence of murder case. Generally blood was collected from the weapon and clothes of victim and accused. In some cases blooded soil was also collected from scene. As per mentioned in the judgments, blood evidences were tested for ABO blood grouping by the Forensic Science laboratory. Some of the blood stained clothes and blooded soil samples could not be examined due to contamination. For the same reason such evidences were withdrawn (in 22.22% cases).

Figure 3: Various Forensic evidences and its applicability in Murder Cases
Weapons used for committing the crime were also sent to FSL in almost 78% cases. They were examined for the presence of blood. Fingerprints were not collected in any case for identification purpose. Injuries mentioned in PM report were matched with the dimensions of the weapon used in few cases. Injuries were observed to check fatality. Injuries appreciated in the court of law in 97.95%

In very few cases (2 cases) bone were collected as evidence when dead body was recovered as just skeleton. But none of the evidences was successfully examined. Laboratories could not identify DNA. Sex determination could also not be carried out from bones. Fingerprints contributed to only 2 cases. However, court appreciated the evidence in both the cases.

CONCLUSION AND SUGGESTIONS

The present study analysis revealed forensic evidence participated in trivial manner. It is unlikely that forensic crime laboratories will ever have adequate resources to test the evidence from every suspected malefaction. The full utilization of forensic science requires research to be carried out that reflect different calibers of resources, evidence collection, and analysis practices, as well as evidence examination protocols.

Following are some recommendations that may be considered for effective application of forensic science in judiciary system of India.

1. Instead of conventional methods of analysis novel techniques should be adopted by Forensic experts. For example, Instead of only ABO blood grouping, various techniques of blood grouping may be indulged to individualize the evidence.

2. The failure of evidentiary value of some forensic evidences is due to improper collection. It is additionally essential to evaluate the efficacy of the training and skills of personnel who perform the collection and examination functions in achieving desired results.

3. Strict rules should also be laid for collection and preservation methods.

4. The investigating agencies and Forensic experts should be trained regarding proper maintenance of chain of custody. Many a times the evidences are withheld by the Court of Law only due to minor slip-ups like delay in handing over the exhibits to Forensic Labs or forget to take signatures on record sheets.

5. At times, Report of Forensic Experts are not being produced as exhibit by prosecutors before the Court, significant evidences may go overlooked.

6. Profound steps must be taken to bridge the gap that exists among Investigating agency, Forensic experts and Law practitioners.

7. For successful administration of justice, it is important that all agencies involved in law enforcement adopt an inter-professional approach towards forensic science

8. Standard Operating System may be introduced for investigating crimes.

Acknowledgement

I would like to express my deepest gratitude to Raksha Shakti University for persistent assistance and encouragement.

References


