

FORENSIC EVIDENCE IN CIVIL AND CRIMINAL CASES

**By Justice U.C. Dhyani,
Chairman,
Public Services Tribunal Dehradun
AT NJA, Bhopal Date:-07.12.2022**

FUSION OF SCIENCE AND LAW

- **A Man may tell a lie but Scientific Evidence will not.**
- **Used For Corroboration**

RIGHT AGAINST SELF INCRIMINATION

Art. 20 (3): No person accused of any offence shall be compelled to be a witness against himself

- The State Of Bombay v. Kathi Kalu Oghad

AIR 1961 SC 1808.

Selvi & Ors vs State Of Karnataka, AIR 2010 SC 1974- Taking and retention of DNA samples which are in the nature of physical evidence, does not face constitutional hurdles in the Indian context. (See 53 A of Cr.PC, Rape)

- Nandini Satpathy v. Dani (P.L.) And Anr AIR 1978 SC 1025.

Privacy Rights in Biological Sample Collection

THE CRIMINAL PROCEDURE (IDENTIFICATION) ACT, 2022

Published in the Gazette of India, Extra, Pt.II
Sec. 1, No.11, dated 18th April, 2022

The Identification of Prisoners Act, 1920 is repealed

Locard's Principle of Exchange

When two objects come into contact with each other something is exchanged and taken away by both objects. This is the basis of the transfer and recovery of all scientific evidence.

RNA

DNA

CHEMICAL COMPOUNDS

A G C T

State Through C.B.I v. Amaramani Tripathi

DNA linked the Foetus of the
Deceased- Poetess with that of
Accused leading to Conviction.

Sec. 53 Cr.PC

**Examination of accused by medical
Practitioner at the request of the
police officer**

**If Grounds to believe that
examination will afford evidence.**

**Sec. 53 A: Examination of person accused of rape
by Medical Practitioner.**

**Sec. 54 Examination of arrested person by
Medical Officer**

Sec. 54 A Identification of Person Arrested

- **Sec. 164 A Medical Examination of the Victim of Rape**
- **With consent within 24 hrs. of FIR**
- **DNA profiling also.**

Sec. 311 A – Power of Magistrate to order person, including accused, who has at sometime been arrested in that case, to give specimen Signature or handwriting.

Injuries

- Abrasions
- Contusion
- Lacerated wounds
- Punctured wound
- Stab wound

- Autopsy:Post - Mortem Examination
- External Examination
- Internal Examination
- Preservation of viscera
- Strangulation-Hanging-Ligature Mark
- Suicide and Homicide

FIVE POINTS

**‘Panchsheel’ with regard to
circumstantial evidence supported by
forensic opinion to uphold the conviction**

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“Will’s Circumstantial Evidence”

Five guidelines include:

- (i) the facts alleged as the basis of any legal inference must be clearly proved and beyond reasonable doubt connected with the factum probandum;
- (ii) the burden of proof is always on the party who asserts the existence of any fact, which infers legal accountability;

(iii) in all cases, whether of direct or circumstantial evidence the best evidence must be adduced which the nature of the case admits;

(iv) in order to justify the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation, upon any other reasonable hypothesis than that of his guilt;

(v) if there be any reasonable doubt of the guilt of the accused, he is entitled as of right to be acquitted.

Now, I Am Entitled to Bail !

Q & A