

CHAPTER - V

CONCLUSION, LIMITATION AND SUGGESTIONS

The present study entitled “fidelity of forensic evidence in criminal trials in India” is intended to critically evaluate the judgments delivered in criminal trials to show how and to what extent forensic evidence aids in criminal justice system. Role of various types of forensic evidence in different crimes is studied and its significance was observed through court judgments.

Researcher has attempted to assimilate information from the preceding chapters which shows how and to what extent forensic evidence supports in providing a better administration of Justice delivery system. An effort is made to find loopholes at various levels of system and to put suggestions forward for filling this gap so that all forensic evidences can become inevitable and more significant in future.

In this chapter, significant findings with regard to present study are summarized and the conclusion based on these findings is described. Moreover, scope for further research into similar area are presented. This chapter concludes with recommendations for three categories of stakeholders in criminal justice system: investigating agency, forensic experts, and judiciary.

Conclusion

The researcher has made in-depth study of court judgments from all possible angles to find out the importance and value attached to the Forensic reports by Investigating agency, public prosecutors and by the honorable court. All through this study certain important findings are observed.

It is found that approx. in 6 % judgments delivered by the Hon’ble High Court of Gujarat during the period from year 1951 to 2015 forensic evidence is mentioned. In 13.34 % rape case judgments by Supreme Court of India forensic evidence is mentioned. A statement mentioned in ‘Report of Justice Malimath committee on Reforms of Criminal Justice System’ endorses this result which says,

“The present level of application of forensic science in crime investigation is some-what low in the country, with only 5-6% of the registered crime cases

being referred to the FSLs and Finger Print Bureau put together.” (Malimath Committee, 2003)

From the present research and its result, it becomes all the more clear that use of forensic science has definitely helped in increased conviction rate and non-use of forensic has resulted in increased acquittal rate. Thus it can be concluded that the role of forensic evidence is found inadequate and the gaps need to be filled by seriously considering the recommendation of Malimath committee report and implementation of the same.

Forensic evidences, after being collected from crime scene, travel through various levels like Investigating agency, Forensic Laboratory, prosecution and court. They may reach up to final decision of court and help in endowing verdict or get dropped by any reasons. Among judgments mentioning forensic evidence, 20 % cases has been found wherein forensic evidence got dropped and could not assist in delivering judgment due to loopholes/gap in the system at various levels. This lacuna is observed at level of investigation, forensic laboratory, prosecution, witness (pancha) and/or court of law.

The reasons found for forensic evidence drop at investigation level are as follows.

- failure in sending the samples to Forensic Science Laboratory
- improper collection techniques
- improper packaging and sealing of samples
- forwarding the samples to FSL without mentioning case details and proper panchnama
- Unguarded, Unprotected and unattended custody of evidences
- Noncompliance of laws and rules of search in cases under NDPS Act
- Failure to collect some important forensic evidences
- Inappropriate photographs or absence of photographs (crime scene or evidence)

The reasons found for forensic evidence drop at Forensic Science Laboratory level are as follows.

- Failure to send Analysis Reports within ascertained time limit or failure to send reports at all
- Incomplete report lacking proper case detailing, mentioning of seal condition or any test procedure.
- Failure of maintaining proper chain of custody
- Inappropriate tests and methodology of analysis
- Noncompliance of purity test to detect exact content of active principle in cases of NDPS Act.

The foremost reason for forensic evidence drop at prosecution level are as follows.

- Failure in presenting evidences before court during trial
- Being unsuccessful in proving some facts regarding evidences during trial

Certain forensic evidences get dropped due to witness turning hostile. Hence, the evidence collected in presence of such witness (pancha) becomes worthless. Though such evidences reach up to court of law, get withheld due to unreliability.

Certainty of punishment acts as a deterrent to potential criminals and serial offenders. It can be achieved through qualitative scientific output. The statistical results of present study depicts that there is a positive and significant relation between the status of forensic evidence (appreciated/withheld by Court) and rate of conviction. In 77.29 % cases wherein forensic evidences are appreciated, conviction is the final verdict. Whereas in cases where forensic evidences is withheld by court, only in 13.74 % cases conviction is the final verdict. This shows that appreciation of forensic evidence tends to help the court in imparting conviction, whereas withholding of such evidence leads to lower down the conviction rate.

There is crucial requirement to bring about quantum improvement in the situation by improving the investigation, forensic analysis and prosecution services. To meet the lacuna, tie the loose ends and fill the gap following recommendations are suggested by the researcher, so that all forensic evidences

in future can become inevitable and help the criminal justice system by expeditiously providing reliable evidence.

Recommendations

Coordination amongst investigators, forensic experts and prosecutors is the main policy recommended through this study to make Criminal Justice System function more efficiently. Effective partnership and team spirit between IOs and Forensic scientists is required. Here, recommendations for three categories of stakeholders in criminal justice system - investigating agency, forensic experts, and judiciary are made.

Recommendations for Investigating Agency

- Appropriate training policy should be evolved for police. They have to be trained in advanced technology, new dynamics of forensic science, efficacy and use of modern forensics techniques. Police Investigating Officers should undertake regular proficiency training in scientific investigations.
 - i) At the time of joining, ii) During the initial training, iii) During training for specialized roles, iv) During managerial and supervisory training and v) Refresher training.
- Efforts should be made to create scientific temper among police.
- Policemen with forensic science qualification/knowledge should be employed.
- Audio/video recording of statements of witnesses, dying declarations and confessions should be made compulsory and authorized by law, to prevent witness turning hostile.
- Forensic Science and modern technology must be used in investigations right from the beginning of investigations. A specialized crime scene officer must be appointed and trained for preservation of scene of crime and appropriate collection of physical evidence from crime scene.
- Each and every police station should be equipped with latest 'investigation kits' and taking help of forensic expert of each subject area must become mandatory during crime scene investigation.

- The investigating officers must be educated about the importance of maintaining Chain of custody while dealing with forensic evidences.
- A time limit should be prescribed for depositing scientific evidences in the FSLs. For example, a time limit of 15 days from the date of occurrence of crime is ideal for deposition of scientific clues in the laboratory. Physical evidence deposited after 15 days should not be accepted by the FSL in extraordinary circumstances. This is necessary to prevent changes in evidences like degradation, contamination, decomposition etc.
- Standard operating procedures should be set up at the State and District level for investigating specified category crimes.

Recommendations for Forensic Experts and Medical Experts

- Forensic science lab experts need training in deposition in the courts as well as knowledge of law before utilizing any advanced technologies
- Forensic science laboratories should encourage scientists to carry out research on the data available with the labs after trials are completed. This could help in proper coordination of their scientific reports and their presentation during deposition in courts.
- Forensic and Medico Legal Services should be strengthened at the District and the State/Central level, with adequate training facilities at the State/Central level for the experts doing forensic work.
- Number of forensic labs in India are highly inadequate. It is recommended by 'Veerappa Moily committee on Administrative Reforms' that for every 32-40 lakhs population, there should be minimum one regional FSL or main FSL. This means, as per today's population of India 1,326,801,576 (According to UN, July 2016), total 414 FSLs are required. There are 6 Central FSLs, 30 State FSLs, 71 RFSLs and 255 District & Mobile Forensic Units in various states all over the country. (Forensic Science Institutions, 2017). This suggests the need of more 80 FSLs approximately in India.
- The State Governments must emphasize that forensic laboratories follow the prescribed time frame for submission of forensic reports and medico legal reports after receipt of case exhibits.

- The forensic experts working in the forensic laboratories should be trained in advanced forensic technologies on a regular interval to keep them updated.
- The various R&D results should be utilized for updating forensic laboratories and training the forensic personnel.
- All the FSL's performance should be regularly audited through high powered scientific performance audit committees. This committees should be entrusted with following powers:
 - To inspect and conduct technical performance audit of issues based on evidence material received and examined in laboratory
 - To assess the capacity in providing forensic Science Services
 - To suggest work norms
 - To provide any other suggestion essential for re-engineering of the FSL.
- Quality Management System should be operated by all FSLs to assure the quality of services. The system of working and policies of laboratory, test procedures etc. should be documented in Quality manuals. This manuals should be updated on regular interval with reference to new research work taken place in the field.

Recommendations for Prosecutors and Judiciary

- The prosecution has to perform a duty to produce best evidence. Moreover, for this, knowledge regarding procedure and systems of scientific techniques used in analysis of evidence is required. This is important to prove his case as well as to convince and assist the Court to deal with the scientific evidences.
- It is necessary to produce the best available evidences, before the Court during the trial. For that reason, prosecution may take help of forensic science in proving criminal cases. A request can be made by prosecution to the Court to order, if necessary, to conduct forensic analysis of the scientific material evidence, found at the crime scene.

- The Judges must have fundamental knowledge and training in forensic analysis. In most of the cases of murder, rape, assassination, sexual assault, burglary, homicide, etc. the forensic material evidence plays an important role. It is recommended to introduce training program for newly recruited Prosecutors and Judges, a part of which should be with the police and forensic laboratories to educate them regarding the investigation lines with the aspect of forensic sciences.
- The judges must be having regular refresher courses to upgrade themselves with advanced forensic technologies
- Constant interaction of Judges with scientists would promote and widen their knowledge to deal with such scientific evidence and to effectively deal with criminal cases based on scientific evidence. The researcher is not advocating that, in all cases, the scientific evidence is the sure test, but only emphasizing the necessity of promoting scientific evidence to detect and prove crimes over and above the other evidence.
- All Prosecutors should work in close co-operation with the police department, and assist in the speedy and efficient prosecution of criminal cases and render advice and assistance from time to time for efficient performance of their duties.

Limitation of the Study

The present study is conducted solely on judgment delivered by honorable High Court of Gujarat and honorable Supreme Court of India which is the limitation of this study. The results are merely based on the evidences mentioned in the judgments accessed through available database.

Future Areas of Study

Present study is conducted in Indian context considering judgments delivered by Gujarat High Court and Supreme Court of India. The further research can be extended considering following aspects.

- Considering various State High Court Judgments to view role of forensic evidence.

- Various sessions Court Judgments to view role of forensic evidence can be considered.
- Reviewing the role of forensic evidence at level of FIR and other case related documents can also be carried out.