
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

VERACITY OF MEDICAL EVIDENCE IN CRIMINAL CASES¹**ABSTRACT**

From decades, we can see that the crime is at high rates and increasing day-by-day. In the process of solving criminal cases medical evidence and legal system play a vital role in determining the final outcome and shedding the light on the death in any criminal case. This paper mainly focuses about the concept of role of medical evidence and about their admissibility. Further it analyses medical evidence and its importance in rape cases and criminal cases and how it ensures to that the justice has been delivered. And also, the concept of how the medical expert opinion and their admissibility plays evident role in medical evidence.

Keywords- Medical evidence, Prosecution, Criminal offence, Medical experts.

INTRODUCTION

The medical evidence plays an important role in identifying the accused and proving the cause behind the crime. The interplay between medicine and the legal system has been on an upswing in the recent years and by the greater evolution of the medical science reciprocity is bound to increase. Medical science gives a lead as how death or crime has been committed. Medical evidence acts as a check upon the testimony of eye witnesses, injured witnesses, recovery of weapons from the accused persons on the basis of disclosure statements under sec 27 of the evidence act of the medical evidence.² And as independent evidence as so far it is established facts, examples, nature and grievousness and the injuries suffered by the deceased.³ The medical evidence is “opinion evidence” and are only corroborative evidence and cannot outweigh the oral evidence produced during the trial, it is so because it is an evidence of the opinion admissible rather than an evidence of facts, under sec 45 of Indian Evidence Act.

¹Neha V. Reddy & Tarun Philip, BBA LLB VI Semester; Alliance School of Law, Alliance University Bangalore

² Dhaniram vs state of Madhya Pradesh 2009 Cr.L.J 1799

³ AIR 2014 SCW 5802

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

Medical evidence is only with respect to the physical aspects of the injury, which is in turn based upon his skills and professional experience⁴ the opinion of a medical expert on that score is pertinent. The doctor while producing it in the court also gives evidence on facts based on his own examination of the harmed person. His evidence with respect to the facts based on his own examination of the injured. His proof regarding the situs, the extent and the actual appearance of the injury is 'evidence of fact', whereas his proof regards to the possible weapon tried.⁵

MEDICAL EVIDENCE IN CRIMINAL CASES

Medical evidence has a "definitive role" to play in criminal cases connected with offenses against the human body and specialists' opinion ought to be upheld by persuading reasons, the Supreme Court has said. A bench of Justices P.C. Ghose and R. F. Nariman noticed this while discharging an appeal challenging a decision of the Bombay High Court saving the 2010 judgment of a trial court sentencing two people in a homicide case. The apex court said if the report of a medical expert is "slipshod" and obscure, his assessment is of no worth and it additionally breaks the significant connections of prosecution proof. "In criminal cases pertaining to offenses against human body, medical evidence has definitive task to carry out. A medical witness who plays out a post-mortem assessment is a witness of fact however he additionally offers an input on specific parts of the case," the bench said. "Expert' opinion has been upheld by persuading reasons ought to be definite. Court can't be relied upon to give up its own judgment and representative its position to a third individual, anyway extraordinary," it said. Managing current realities of the case, the bench said the reason for wounds was not expressed in the postmortem report of the expired and the prosecution failed to provide that the death was caused because of wounds inflicted by the recuperated weapons.⁶

WHAT DOES PROSECUTION NEED TO PROVE IN CRIMINAL CASE

In Naresh vs State of Uttarkhand on 28 July, 2017, subsequently taken out an eye-witness on the strength of an uncanny opinion given by a medical witness. Over-dependence on such opinion evidence, regardless of whether witness is an expert in the field, to checkmate the immediate statement given by a witness is certainly not safe adopted in criminal cases. It is now

⁴<http://www.allresearchjournal.com/archives/2015/vol1issue9/1-9-123>.

⁵ Cr. Appeal No. 40f 2017 Vs State of Himachal Pradesh on 26MARCH,2018

⁶The Indian Express. 2021. *Medical evidence has decisive role in criminal cases: Supreme Court*. [online] Available at: <<https://indianexpress.com/article/india/medical-evidence-has-decisive-role-in-criminal-cases-supreme-court-4622906/>> [Accessed 1 May 2021].

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

become aphoristic that medical evidence can be utilized to repulse the testimony of eyewitnesses just in the event that it is so conclusive as to preclude even the possibility of the eye witnesses form to be valid.⁷

In Jodhan Yadav Anothers vs state of Bihar, 2006 case, criminal cases while managing with the medical evidence and oral declaration of a witness, it was held that when a medical evidence does not uphold the point where the person expired got the injuries, which was the reason to death, it was held that the prosecution could not reaffirm the case beyond reasonable uncertainty.⁸ In criminal cases 295 SC, held that the court can draw an unfavorable induction against the prosecution that statement of witnesses are not of trust commendable, one medical evidence rules out that the wounds said to be exact or not, according to the eye witness version.

While dealing with the difference between ocular witness and the medical evidence, in a criminal case, the SC court *in Khambam Raja Reddy vs Public Prosecutor*, observed When there is an inconsistency between the medical evidence and ocular evidence, where the medical evidence isn't borne out by the ocular evidence. In such a circumstance it was proposed in the interest of the appellants on the authority of a choice of this Court⁹ in the case of *State of M.P. versus Dharkole alias Govind Singh and Ors.*, revealed in (2004) 13 SCC 308, where the medical evidence was at difference with the ocular proof, the statement of the witness ought to be chosen freely and if found dependable, this couldn't be disposed of simply in light of the fact that it is at fluctuation with medical evidence. While there can be no distinction of opinion with the rule clarified in the aforementioned decision, the application thereof will rely upon whether the story as made out by the prosecution is dependable and can be identified with the wounds endured by the victim in the way as looked to be projected. On the off chance that the ocular witness is to such an extent that it is beyond to expect to relate the injuries caused with the conditions wherein they were said to have been inflicted, the court has the preference not to acknowledge the ocular evidence.¹⁰

EXPERT OPINION ON MEDICAL EVIDENCE AND ITS ADMISSIBILITY UNDER CRIMINAL CASES

According to Chapter 2 of the Indian Evidence Act (Sec 45-51) the relevancy of opinion of

⁷Naresh vs State of Uttarkhand on 28 July, 2017

⁸Jodhan Yadav Anothers vs state of Bihar, 2006

⁹Khambam Raja Reddy vs Public Prosecutor (2006) 11 SCC 239

¹⁰AIR 2005 SC 44

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

third party is referred to as expert opinion and when related to medical evidence these are Doctors, forensic researchers and medical experts etc. The provisions related to medical evidence and its expert opinion in criminal cases are generally exceptional in nature to the common rule that evidence is to be provided based on the facts only which are in the knowledge of a witness. Such exception with respect to expert opinion on medical evidence is derived from the principle that courts cannot form opinions on such matters that are technically advanced or professionally unique, without assistance of the people who have existing knowledge and skill and expertise on such matters. There exist few conditions for admitting an expert opinion; a) The court is unable to resolve dispute of facts without input from professional or technical expert. b) In such a situation where witness expressing the opinion is really a technical expert. The expert opinion rendered by experts is usually considered as opinion evidence by the courts and it is not supposed to be an alternative to substantive evidence. The existing protocol in criminal cases is that such expert evidence is to be corroborated by direct evidence or by circumstantial evidence.¹¹

The court that seeks the expert opinion of professionals in a case are not bound by the evidence provided that is to a large extent advisory in nature. The court rather studies the materials and information provided by the expert and derives its own conclusions taking into consideration the authorities on behalf of which he disposes. The value of such opinion depends on the facts on which it is based and the competency of such expert in forming a reliable opinion. In such a situation where the experts give no substantial data that is in support of their respective opinion, the evidence though admissible can be excluded from consideration as providing no assistance in arriving at the correct conclusion.¹²

The value of the evidence provided by expert depends largely on the cogency of reasons on which it is duly based. It cannot be considered base of conviction unless it is corroborated by other evidence. Such evidence is also only considered opinion evidence and the court has to analyse the same. The reasons that are in support of the said evidence has to prove convincing for the opinion of expert to be accepted. There is no scope for ipse dixit of the expert. It is in the hands of the court to decide whether opinion has been correctly devised on the data available and for reasons stated. Expert opinion is thus not a cogent or decisive piece of evidence but

¹¹ India, l., 2021. *Experts Opinion and its admissibility and relevancy - Law of Evidence*. [online] Legalservicesindia.com. Available at: <<http://www.legalservicesindia.com/article/1583/Experts-Opinion-and-its-admissibility-and-relevancy---Law-of-Evidence.html>> [Accessed 2 May 2021].

¹²India, l., 2021. *Experts Opinion and its admissibility and relevancy - Law of Evidence*. [online] Legalservicesindia.com. Available at: <<http://www.legalservicesindia.com/article/1583/Experts-Opinion-and-its-admissibility-and-relevancy---Law-of-Evidence.html>> [Accessed 4 May 2021].

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

rather of advisory nature in court and has to be supported by relevant data and reasons.¹³.

RELEVANCY OF EXPERT OPINION

The Supreme Court in the case of *State of Himachal Pradesh V Jai Lal and Ors* explained the significance of opinion of expert by clarifying that section 45 of the Indian Evidence Act which makes opinion of experts admissible lays down that when the court has to derive an opinion upon a matter of foreign law or science or medically unique circumstances, then, as to identify the proper cause of the crime and to check with the submission of witnesses, the opinion of such experts or professionals who are skilled in their respective fields are considered as relevant facts.¹⁴

In *Ramesh Chandra Agrawal V Regency Hospital Ltd and Ors*, The Supreme Court delineated the requirements of such expert evidence under section 45 of Indian Evidence Act. The Court duly stated that the first and foremost requirement for an expert evidence to be admissible is that it is necessary to hear opinion of experts. The 'catch' in such situations is that the matter of the case is out of the knowledge and expertise of the lay person.¹⁵ Owing to this, there exists a need to request and analyse an expert opinion where such a medical issue is to be settled. The scientific question involved in such a matter is presumed to be not in the knowledge of the court and in cases where there is science involved that is highly qualified, the prominent role of expert can't be opposed. Some main points for admissibility of expert opinion are;

- a) The expert must be within a recognized field of expertise.
- b) The evidence must be based on reliable principles.
- c) The expert must be qualified in that discipline.

In *Arshad V State of A.P.* case, the court observed that expert opinion can only be looked as an inference been drawn from existing data and that it would not have priority over the eye-witness testimony unless non predictability between the two is so great as to incorrectly the oral evidence.¹⁶

In *S.Gopal Reddy V State of A.P* case, the court stated that it would not be safe so as to rely on

¹³ AIR 1936 ALLD 165

¹⁴ 1999 7 SCC 280

¹⁵ 2009 INSC 1569

¹⁶ Arshad vs state of A.P. 1996 CrLJ 2893 (para 34)

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

just this type of evidence without seeking the independent and reliable corroboration.¹⁷

MEDICAL EVIDENCE IN RAPE CASES

As the offence of rape in privacy, and direct proof of rape is very rarely available, corroboration of the statement of the complainant is sought from medical evidence. A charge of rape is not difficult to make and exceptionally difficult one to disprove, and in common manner to the accused, the courts insist or demand on corroboration of the complainant story. In some cases, rape is clearly proved or conceded, and the examination is whether the accused committed the rape. At different times, the relationship of the accused and the complainant is conceded and the enquiry is whether the rape was committed. Where rape is denied, the sort of corroboration one searches for is medical evidence showing injury to the private parts of the complainant, injury to the different parts of her body, which may have been happened in struggle, seminal stains on her clothes or the clothes of the accused, or on the on where the offence is committed. So, medical evidence in instances of rape is truly a significant piece of evidence.¹⁸

The purpose of coming to decision about conviction on the ground of 'rape' the component of the actual relationship under the first ingredient without the consent is to be proved beyond doubt. Responses that crime against ladies might, range from quietness and inaction to control the proof (by either side sometimes) and really accusing the victimized individual. Rape is perpetrated in secret and the statement of the victim alongside with the medical evidence is taken as proof of the crime. False allegations of rape are common and medical evidence may help in discovering the truth or otherwise of the allegation. Actus reus for a situation of rape is connected with the assent of the victim and in question it is discovered by examining it in relation to the perspective of the person in question.¹⁹

EVIDENCE AND WITNESS TESTIMONY IN RAPE CASES

In Sambhu Rai vs State of Sikkim on June 7th, 2019 case it was held that If The evidence of the victim is not absolutely inconsistent with the medical evidence. It is settled that ocular witness has more value vis-a- vis medical evidence. The medical evidence doesn't totally preclude all prospects at all of the commission of rape by the Appellant. There is no immediate

¹⁷AIR 1996 SC 2184+

¹⁸In Fagu Mondal vs the state of West Bengal on 20th May, 2016

¹⁹In Ratan Das vs State of West Bengal on 12 October, 2004

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

inconsistency between the ocular and medical evidence.²⁰

In Mishra Paraja vs State of Orissa on 21 Febraury, 2014 case, where medical evidence is absolutely inconsistent with ocular evidence and this thoroughly improbabilities the version of eye-witnesses concerning to commission of rape. In such a situation, it was presented that under such conditions medical evidence is to be considered over the version witnesses. In this case it was held that, this is not an instance of difference between oral evidence eye-witnesses and that of medical evidence. This is a case, where medical evidence thoroughly precludes the versions of the eye-witnesses.²¹

In state of Karnataka vs Mahabaleshwar Gourya Naik on 15th May, 1992 the medical evidence has to set up that there was an attempt of rape if not the offence of rape having been committed by the respondent. Then they show up to the end that the offense is only an attempt of rape on the medical evidence which does not build the proof of rape as legally necessary by law.²²

CONCLUSION

Medical evidence, thus play very important role in play and utmost place in the investigation of the crime. The relevancy of medical evidence in crime cannot be ignored. It is by the medical examinations that sometimes the identity of the victim is established. Expert Evidence is inevitable in criminal cases and in order to provide justice, the evidence and witness are very necessary and they hold a very important place in law. As been emphasized in the above-mentioned cases, it was ensured to medical evidence that the offenders of the crime were convicted who might have gone wrong undiscovered. Therefore, medical evidence ensures that the justice is delivered.

²⁰In Sambhu Rai vs State of Sikkim on June 7th, 2019 SCC 359

²¹Mishra Paraja vs State of Orissa on 21 Febraury, 2014

²²AIR 1992 SC 2043

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in



For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>