

**A RESEARCH PAPER ON
ROLE OF MEDICAL EVIDENCE IN INDIA -A CRITICAL STUDY**

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ABSTRACT

Medical evidences in India are used by investigating agencies to prove the guilt of the accused. The medical and scientific evidences can play a major role in identifying the accused and proving his guilt. These evidences are mainly corroborative pieces of evidences. The expression “evidence” means “oral or documentary or circumstantial proof of the allegations in issue between the parties in a legal proceeding”. “Medical evidence” means a proof given by medical expert, which is based on his scientific knowledge skill and personal experience. The knowledge of the medical expert is always essential in the criminal justice system. The expert evidence given by a medical person comes to the help of the Court in deciding various matters. Particularly, in case of certain offences against a women or death of a person, medical evidence is inevitable. The medical evidence adduced by prosecution has great corroborative value. It proves that the injuries could have been caused in the manner alleged and the death could have been caused by the injuries so that the prosecution case being consistent with matters verifiable by medical science, there is no reason why the eye-witnesses should not be believed. So in this paper the researcher is going to elaborately discuss with the importance of medical evidence in criminal cases and the techniques which has been used to find out the nature of crime especially the offences against women with comparison into the expert witness and the ocular testimony of witnesses, for this purpose the researcher is intending to take help from the judgments of the Supreme Court of India and various High Courts in India in context medical and forensic evidences.

Keywords- Medical evidences, Scientific evidences, criminal offences, prosecution, expert

INTRODUCTION

The victims of criminal offences seek justice through the Courts by filing criminal cases for awarding punishment to the offenders. The state is required to prove the guilt of the offenders by producing adequate evidences before the court. Evidence is given by the expert of the relevant field in the form of his opinion which is based on the information that he has gathered from the facts of the case. However, the evidentiary value of the opinion given by the expert is not steadfast because of the discretionary power available to the Court, which may choose to accept or reject it. Medical evidences and scientific techniques are also used by investigating agencies to prove the guilt of the accused. In view of current scientific developments, the medical and scientific evidences can play a major role in identifying the accused and proving his guilt. These evidences are mainly considered as a corroborative pieces of evidences.

The interaction between Medicine and the Law has played the main role in the recent years. Medical science gives clue as to how the death of the person, how the injury, was caused, while the law prosecutes a person for killing and injuring other. Although the substantive evidence case is that of the eyewitnesses who seen the incident, expert evidence has corroborative value. Sec 45 of the Indian Evidence Act broadly described the medical evidence as a expert evidence. It was grown up by various judicial judgements especially the offences against women like rape, dowry death etc. thus It becomes necessary in each and every case where the expert evidence is admitted to check and counter-check it by producing the expert witness before the trial of a court.

AIM OF THE STUDY

- To make a study on importance of medical evidence in India
- To understand the value of evidence given by medical expert
- To find out development aspects of medical evidence through judicial decisions
- To know about the role of medical evidences particularly offences against women

RESEARCH QUESTION

Whether the medical evidence can be taken as a corroborative evidence under Indian Evidence Act, 1872 with comparison to role of medical evidence and ocular evidence in India?

HYPOTHESIS

Medical evidence is a corroborative evidence under indian evidence Act, 1872

MATERIALS AND METHODS

The research is primarily doctrinal research. Here the data collection is necessarily secondary data which collected from books, journals, articles, case laws, law reports, newspapers, e- sources for the purpose of this study.

CHAPTERIZATION

Chapter 1 deals with ‘The importance of medical evidence in criminal cases’

Chapter 2 deals with ‘Medical evidence and scientific techniques’

Chapter 3 deals with ‘Position of medical evidences and ocular evidences (Eye witnesses) in court proceedings with special reference to case laws’

CHAPTER I

IMPORTANCE OF MEDICAL EVIDENCE IN CRIMINAL CASES

In every trial for manslaughter or for the offence of causing hurt to human body, opinions of medical officers are invited to discover the reason for the death, injuries, whether the injuries are anti-mortem or post-mortem, the probable weapon used, the effect of injuries, medicines, poisons, the consequences of wounds whether they are sufficient in the ordinary course of nature to cause death, the duration of injuries and the probable time of death. Medical knowledge is a specialized form of knowledge.¹ An ordinary man may not be in a position to have medical knowledge without proper education and training. The knowledge of the medical expert is always essential in the criminal justice system. The expert evidence given by a medical person comes to the help of the Court in deciding various matters. Particularly, in case of death of a person, medical evidence is inevitable.

¹ Prof. shubhada, 'role of medical evidences in certain offences against women' available at <http://shodh.inflibnet.ac.in/bitstream/123456789/1502/1/pednekar%20s%20s.pdf> accessed on 18/05/2018

Medical opinion

In certain trial the plea of unsoundness of mind or minority is taken by the accused. In trials for offences of kidnapping and rape, the question invariably in dispute is the age of the person kidnapped or of the girl raped. In all such cases the medical opinion is brought forward to establish insanity and minority.² In rape cases apart from showing the minority of the girl, the medical opinion is tendered to establish the offence of rape. However, the evidentiary value of the opinion given by the expert is not binding one because of the discretionary power available to the Court, which may choose to accept or reject it. This discretionary power in the hands of the Court arises from Section 45 of the Indian Evidence Act, 1872 (Anon n.d.), which, theoretically, gives a lesser degree of importance to expert evidence by terming it as merely corroborative in nature.

In *Chimanbhai Ukabhai v. State of Gujarat, (1983)*³, that the supreme court observed, The medical evidence adduced by prosecution has great corroborative value. It proves that the injuries could have been caused in the manner alleged and the death could have been caused by the injuries so that the prosecution case being consistent with matters verifiable by medical science, there is no reason why the eye-witnesses should not be believed. Unless, however, the medical evidence in its turn goes so far that it completely rules out all possibilities whatsoever of injuries taking place in the manner alleged by eyewitnesses, the testimony of the eye witnesses cannot be thrown out on the ground of alleged inconsistency between it and the medical evidence. "

SEC 45 of Indian Evidence Act, 1872⁴

Sec 45 of Indian Evidence Act, 1872 states that, "When the Court has to form an opinion upon a point of foreign law or of science or art, or as to identify of handwriting or finger impressions, the opinions upon that point of persons especially skilled in such foreign law, science or art, or in questions as to identify of handwriting or finger impressions, are relevant facts." Such persons are called experts. (Anon n.d.)

The careful reading of the section gives us a vague idea about who is an expert, by the words – the persons especially skilled. There is no clear mention about qualifications, experience or any

² M.L.Singhal, 'medical evidence and its use in trial of cases' published in J.T.R.I journal, 1995

³ *Chimanbhai Ukabhai v. State of Gujarat, (AIR 1983 SC 484: 1983 Cr. L. 822)*

⁴ Dr. Avatar Singh, 'principles of law of evidence' central law publications, 18th edition, 2010

particular attainment. But especially skilled means there must be something to show that the expert is skilled and has an adequate knowledge of the subject.

Who is an expert

An expert is a person who is instructed by experience is called 'expert'.⁵ Witnesses are ordinarily not to say what they thought or believed to be and therefore their opinions are irrelevant in a judicial enquiry, but in certain special matters requiring special skill in the subject concerned, opinions of persons having special study, training or experience are accepted as evidence. Expert evidence in a criminal trial would be just a fraction of the totality of the evidence on the appreciation of which the judge takes decision.

An expert witness isn't an observer of reality. His proof is truly of an advisory character. The obligation of a specialist witness is to outfit the judge with the essential logical criteria for testing the precision of the conclusions in order to empower the judge to frame his autonomous judgment by the utilization of such criteria to the realities demonstrated by the confirmation of the case.

In *Awadhesh v. State of M.P. (1988)*⁶ again their Lordships of the Supreme Court observed : "Medical expert's opinion is not always final and binding."

Importance of medical evidence

The interaction between Medicine and the Law has played the vital role in the recent years. Medical science gives key as to how the death of the person, how the injury, was caused, while the law prosecutes a person for killing and injuring other. The postmortem report, examination of wounds, chemical analysis, the expert reports are admissible in the Court as an evidence according to our legal system. The importance of Medical Evidence at present is an increasing tendency. The medical evidence includes doctor's report of examination, chemical analysis report, serologist, DNA etc.

The expert evidence given by a medical person comes to the help of the Court in deciding various matters. Particularly, in case of death of a person, medical evidence is inevitable. Ordinarily medical evidence is corroborative evidence (Anon 2013). Expert evidence alone will not convince the Court beyond reasonable doubt that a particular person is guilty of a crime. when a medical person is called as an expert, he is not to witness the facts, because his evidence

⁵ S.P.Thyagi, 'law of evidence' vinod publications, delhi, 2006, p.213

⁶ *Awadhesh v. State of M.P. (AIR 1988 SC 1158: 1988 Cr.LJ. 1154 (Para 10)*

is not direct evidence of how an injury in question was done. He gives his opinion only on how that, in all probability was caused. The value of such evidence lies only to the extent it supports and lends weight to direct evidence of eye-witnesses or contradicts evidence and removes the possibility of the injury in question and could take the manner alleged by the witness.

Value of Medical Evidence

Expert evidence ought to be approached with care and caution. An expert witness, however, fair minded is naturally biased in favor of the party who calls him. He is often called by one side simply and solely because it has been determined that he holds view ideal to his interest.⁷ Medical evidence isn't direct, and, therefore, value of such an evidence lies only on the extent to which it supports and lends weight to the direct evidence of eye-witnesses or contracts that evidence and removes the possibility that the injury could take place in the manner alleged by those witnesses.⁸ The opinion of a doctor is entitled to great weight but may be discarded on good grounds.

Thus medical evidences has played a decisive role in criminal cases, the opinion of expert in every field should help the court to easily find out the nature of the offences as well as the guilt of the accused. Especially the expert evidence given by a medical person comes to the help of the Court in deciding various matters especially the offences against women or death of a person.

CHAPTER II

MEDICAL EVIDENCE AND SCIENTIFIC TECHNIQUES

Medical evidences and scientific techniques are also used by investigating agencies to prove the guilt of the accused. In view of current scientific developments, the medical and scientific evidences can play a major role in identifying the accused and proving his guilt. These evidences are mainly corroborative pieces of evidences and such scientific evidences cannot be easily rejected by the courts. At the same time, the Court should see in which circumstances the expert scientific evidence should be allowed when the issue before the Court is of such a nature

⁷ *Divan Singh v. Emperor 43 Cr. LJ 565*

⁸ *Nagindra Bala v. Sunil 1960 Cr LJ 1020 (SC)*

that may not be any need to take scientific evidence, the court may not allow such evidence. Thus medical evidence is not a direct evidence.⁹

Medical evidence” means a proof given by medical expert, which is based on his scientific knowledge skill and personal experience(International Journal of Applied Research n.d.). But such expert’s opinion is merely an opinion unless it is tested in a court by cross-examination and accepted by the court as evidence. The opinion of a medical expert cannot outweigh the testimony of a respected and independent witness. So far as the question of inconsistency between the medical evidence and the ocular evidence is concerned, the law is well settled that, unless the oral evidence available is totally irreconcilable with the medical evidence, the oral evidence would have primacy. In the event of contradictions between medical and ocular evidence, the ocular testimony of a witness will have greater evidentiary value compare then expert evidence.¹⁰ If the medical evidence and oral evidence is inconsistent with the other, oral version on the point of manner of assault, the nature of weapon, use of the weapon, type of injuries caused and the probable duration of time etc. it, then the medical evidence plays an important role, then is sufficient to discredit the entire case unless reasonably explained

In state of H.P Vs jai lal (1999)¹¹, the court held that, expert opinion is not conclusive nature, it is not mandatory to abide by the court.

Though the scientific evidence plays an important role in the courts, the Courts also can demand better scientific evidence with improved methods for proper interpretation of results. This evidence is to obtain all relevant medical records from the facts of the case ¹², then only it was admissible by a court. It is the duty of the court to examine the contents of the report. While presenting the evidence the court and the lawyers can make a search through questions to the experts. The courts can encourage the expert and can recognize and suggest new methods of providing evidence in the Court of Law.

Evidentiary value of various medical and scientific or expert techniques¹³

- Autopsy report

⁹ Hanish k.hanawalla, ‘developments and liberalization of heresay doctrine, published on journal of the indian law institute, vol.38

¹⁰ Nirmal chopra, ‘contradiction between oral and medical evidence’ eastern book company, oct 5, 2006

¹¹ *state of H.P Vs jai lal AIR 1999 SC 3318*

¹² Elliot B.Oppenheim, ‘the offensive use of medical evidence in criminal cases’ published on 2010.

¹³ Tanya singh, ‘importance of medical evidence in criminal cases, published in international journal of applied research, 2015, vol 1.

- Blood stains
- DNA test
- Narco analysis test
- Blood test
- Hand writing
- Fingerprinting
- Photography

Autopsy report

The autopsy report indicates the approximate time when the death occurred which is discovered by observing the rigor mortis, the post mortem report, warmth of the body and the degree of decomposition of the body, the contents of bladder and stomach etc. helps to decide the time of death. When the medical officer deposes the truth of record made by him, the record itself is treated as evidence . When the post mortem report is not proved by examining the medical expert in the court to substantiate evidence to his report, it is not admissible in evidence

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In *Gafur Shaikh V. State*¹⁵, the post mortem report is used by the doctor who conducted the post-mortem examination for the purpose of refreshing his memory as permitted by law while giving evidence in Court. No evidence has been laid in this case to show that the post-mortem report was being pondered in evidence under any of the relevant provisions of Chapter II of the Evidence Act. The Judge has erred the law in treating the post-mortem report as substantive evidence in this case without any foundation having reason for applicability of any of the relevant provisions of Chapter II of the Evidence Act.

Blood stains

If there should arise on occurrence of offences like murder, assault, road accidents, abortion, rape and other cases, where the victim or accused is injured, the search for blood stains are made at the scene of crime on the body or clothing of victim and culprit, on vehicles and its parts, broken glasses etc. and weapon of offences. The blood ought to be sent to an expert immediately otherwise it decomposes and undergoes a rapid change with the progression of time. An expert decides as to how old the blood sample is by the change in the colour.

¹⁴ *Smt. Kunti Devi Vs Oshi Rai AIR 2001 SC 2226*

¹⁵ 1984 Cri. L. J. 559 (Cal)

When the rape is committed against a woman, the availability of direct evidence is zero, most of the times (Anon n.d.). As such in cases of murder of the wife more particularly, again the offence is committed in the four walls of the house. In such cases, the medical evidence plays a crucial role; in the absence of direct evidence. The vulnerability of the woman extends to such a level that her caretaker can take benefit of his position and she has to fall prey to his violence. Though the prosecution files the case with enthusiasm to convict the accused during the investigation trials because of lack of direct evidence, the prosecution case becomes weak.

In *Mukesh and Another vs State for NCT of Delhi and Others (2012)*¹⁶, famously known as Delhi gang rape case. In this a 23-year-old paramedic student was brutally assaulted and raped by six persons in a moving bus in South Delhi and thrown out of the vehicle with her male friend on the night of December 16, 2012. She had died in a Singapore hospital on December 29 that year. It was a landmark case in India. After this case there was an amendment on criminal law regarding heinous crime of rape. In this case the value of medical evidence is highly grown up. There was no ocular evidence. The medical evidence/expert evidence will stand for prove the guilt of the accused. It plays a corroborative role.

In *Kathua rape and murder case (2018)*¹⁷ (Anon n.d.), an 8 year old girl was raped and murdered allegedly kept captive in a small village temple in Kathua district for a week. There is no direct evidence to find out the guilt of the accused and she was brutally raped. So the court immediately issued a forensic test of the victim's body. The post-mortem revealed the presence of clonazepam in the body of the dead girl. The examination by the doctors found that the girl had been drugged with a sedative before she was raped and murdered. Forensic evidence suggested that she had been held for several days by Sanji Ram, one of the individuals accused of the crime. Strands of hair recovered from the temple matched those taken from the girl. The forensic examination stated that Bano had been raped multiple times by different men, and that she had been strangled to death, as well as hit in the head with a heavy stone. Delhi Forensic Science Laboratory analyzed 14 packets of evidence containing vaginal swabs, hair strands, blood samples of four accused, viscera of the deceased girl, the girl's frock and salwar, simple clay, and blood stained clay. Vaginal swabs matched with the DNA of the accused as did some other samples. Hair strands found in the temple where Asifa was raped matched that of the girl and the

¹⁶ *Mukesh and Another vs State for NCT of Delhi and Others AIR 2012*

¹⁷ Kathua rape and murder case, 2018

accused. Based on medical evidence 8 people were arrested and charged for the crime. So in case of certain offences against women especially rape, the medical evidence plays a corroborative value.

DNA Test

It is a biological blueprint of life DNA fingerprinting profile is unique to each individual and hence the DNA profiling is used to identify an individual and his lineage.¹⁸ The technological device is used to identify a person in criminal and civil cases the main advantage of this device is that the test can be done on small samples and can accurately establish their originals with a high degree of certainty. It shows the same genetic pattern irrespective of the biological material like hair, seminal stains fresh blood, soft tissues hard tissue etc. These tests are highly useful in various criminal investigations involving offences like rape, murder, kidnapping, exchange of babies, infanticide, abandonment of newborn child, illegal abortion.¹⁹

Narco analysis Test

These are the scientific test involving minimal bodily harm to the accused or person concerned, micro analysis involves injecting a drug to drive a subject into a mental stupor. The drug-induced subject/person are then asked question which are ordinarily presumed to be free of lies. The information sought to be elicited in a lie detector test is information in the personal knowledge of the accused²⁰. In certain cases this evidence can be applicable before the court to prove the guilt of the accused

In *Noida double murder case(2008)*,²¹ this case refers to the unsolved murders of 13-year-old girl Aarushi Talwar and 45-year-old Hemraj Banjade, a live-in domestic worker, employed by her family in Noida, India. The two were killed on the night of 15–16 May 2008 at Aarushi's home. The case aroused public interest as a whodunit story, and received heavy media coverage. The sensational media coverage, which included salacious allegations against Aarushi and the suspects, was criticized by many as a trial by media. When Aarushi's body was discovered on 16 May, the missing servant Hemraj was considered as the main suspect. However, the next day, his partially decomposed body was discovered on the terrace. The police clearly suspects the parents of talwar. The case was then transferred to the CBI, which exonerated the parents and suspected

¹⁸ Jyotirmoy adhikary, 'legislation on DNA evidence, published on 2008

¹⁹ Michelle D. miranda, 'the role of forensic science on sexual violence against women, ijca publication, 2017, vol

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²⁰ AIR 1961 SC 1808.

²¹ Noida double murder case, air 2008(arushi talwar case)

the Talwars' assistant Based on the 'narco' interrogation conducted on the three men, the CBI suspected that they had killed Aarushi after an attempted sexual assault, and Hemraj for being a witness. The CBI was charged the parents for the death and produce before the court.

Blood test

The purpose of conducting blood test is ordinarily to find out the blood relationship or connection between persons, it has got great evidentiary value in the courts, which is generally used in paternity, maturity and personal identities. The blood grouping test is a perfect test to determine questions of disputes paternity of a child and can be relied upon by courts as a circumstantial evidence.

In Anuj Alias Anu And Anr. Etc. vs State Of H.P.(1999),²² that the opinion that the aforesaid two decisions turned on the peculiar facts of each case and they do not lay down a general proposition that in the absence of determination of blood group the find of human blood on the weapon or garment of these accused is of no consequence.

Hand writing

The investigation of handwriting is done by the hand writing experts, known as calligraphic experts, on scientific principles. The identity of a person can be established by comparison of handwriting also. First of all the admitted or standard of writing of the accused for a comparison with the disputed writing is obtained. A person familiar with the handwriting of a particular Individual or an expert competent to compare handwritings on scientific basis are entitled to give evidence in a court on handwriting. A court can also compare a writing made in its presence with another writing admitted to be the writing of the same person.

Fingerprinting

Fingerprint evidence, although sometimes not as high-profile as other high-tech crime-solving methods like DNA typing, is still very much used in criminal investigations and cases

In Mohd. Aman, Babu Khan And Another vs State Of Rajasthan(1997)²³ High Court upheld the conviction of Mohd. Aman is that his fingerprints were found on a brass jug in the house of the deceased.

²² *Anuj Alias Anu And Anr. Etc. vs State Of H.P. on 29 October, 1999*

²³ *Mohd. Aman, Babu Khan And Another vs State Of Rajasthan on 8 May, 1997*

Photography

The science of photography includes the photomicrography which is the science of combining the microscope and the camera and with its help, minute clues, which not visible to ordinary eyes, can be seen. The hair, fibers, dust particles, perforation on paper can be examined with this technology. Video camera helps in obtaining irrefutable proof of occurrences and role played by the offenders and police in unlawful assemblies, Gambling bribery etc. The device provides clear picture of crimes to the Courts.

Thus In this chapter clearly explained the value of various scientific techniques and developments accordance with medical evidence. As a result of that view the medical and scientific evidences can play a major role in identifying the accused and proving his guilt. These evidences are mainly corroborative pieces of evidences and such scientific evidences cannot be easily rejected by the courts.

CHAPTER III

POSITION OF MEDICAL EVIDENCE AND OCULAR EVIDENCE WITH SPECIAL REFERENCE TO CASE LAWS

Ordinarily medical evidence is corroborative evidence. Medical evidence alone will not convince the Court beyond reasonable doubt that a particular person is guilty of a crime. The role of a medical man, in law, is to help in the administration of justice. It is natural that in the course of his professional duties, he frequently enters the arena of law, in examination of cases for age, the examination of injuries on the body of a person rape, sodomy etc. He has to examine cases of poisoning, as also to observe and certify persons regarding their sanity or insanity.²⁴

Medical evidence and ocular evidence

The opinion of a medical expert cannot outweigh the testimony of a respected and independent witness. (Anon n.d.) But if there is a conflict between the two, then medical evidence is given preference. If the medical evidence and oral evidence is inconsistent with the other, oral version on the point of manner of assault, the nature of weapon, use of the weapon, type of injuries caused and the probable duration of time etc, then the medical evidence plays an important role, then is sufficient to discredit the entire case unless reasonably explained. The testimony of eye witnesses, therefore, cannot be thrown out merely on the ground of its

²⁴ Dr. P.K. Bhattacharji (1998), 'Medico-Legal Companion', 2nd Ed., Allahabad Law House, p.276.

inconsistency with medical evidence because medical evidence is only of probative and corroborative²⁵. Where eyewitnesses are credible, then medical evidences pointing to alternative possibility cannot be accepted.²⁶

In *Brij Bhushan v. State of U.P (1957)*,²⁷ that the court held that, In an appropriate case on a consideration of the nature of the injuries and other relevant evidence, the Court can come to its own conclusion, if the medical evidence is deficient.

In *Makhan v. State of Gujarat,(1971)*²⁸, that the court said, Where the opinion of a medical witness is contradicted by another medical witness both of whom are equally competent to form an opinion, the court should normally accept the evidence of the medical witness whose evidence is corroborated by direct evidence. and whose testimony accords with the prosecution version Where there is a glaring inconsistency between the direct evidence and the medical evidence in respect of the entire prosecution case, that is a manifest 3 defect in the prosecution case

In *Ram Narain Singh v. State of Punjab,(1975)* Court held that where the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence or the evidence of the ballistics expert, it amounts to a fundamental defect in the prosecution's case and unless reasonably explained it is sufficient to discredit the entire case.

In *State of Haryana v. Bhagirath & Ors., (1999)*, it was held as follows: "The opinion given by a medical witness need not be the last word on the subject. Such an opinion shall be tested by the court.(Anon n.d.)Similarly if the opinion given by one doctor is not consistent with probability the court has no liability to go by that opinion merely because it is said by the doctor. Of course, due weight must be given to opinions given by persons who are experts in the particular subject."

In *State of U.P. v. Hari Chand, (2009)*,²⁹, that the Court reiterated the aforementioned position of law and stated that, "In any event unless the oral evidence is totally irreconcilable with the medical evidence, it has primacy."

In *State vs azam @ rihan(2016)*³⁰, in order to establish conflict between the ocular evidence and medical evidence, there has to be a specific and material contradictions"were the eyewitnesses is

²⁵ AIR 1973 SC 1204, 1994 Cr. L.J. 626 (SC) 1989 Cr. L.J. 288 (SC)

²⁶ *State V Bhagirath AIR (1999) 55CC 96, Ravi Kumar Vs State AIR (2005) 9 SCC 315*

²⁷ *Brij Bhushan v. State of U.P., AIR 1957# SC 474: 1957 Cr.L.J. 591*

²⁸ (*Makhan v. State of Gujarat, AIR 1971# SC 1797: 1971 Cr.L.J. 1310*)

²⁹ *State of U.P. v. Hari Chand, (2009) 13 SCC 542,*

³⁰ *State vs azam @ rihan in crl.p.no.576 of 2016*

found credible and trustworthy, medical opinion pointing to alternative possibilities may not be accepted as conclusive

In *piara singh vs state of punjab(1969)*³¹, opinion of one medical witness is contradicted to another, then both experts are equally competent to form an opinion. The the court will accept the opinion of expert, which supported the direct evidence of the case.

RECOMMENDATION

In india medical evidences is an integral part of fair justice. In prosecution case the prosecutor submits the evidences to prove the guilt of the accused and the judge gives the judgment accordingly. In between these two processes one important thread is connected and that is the expert or specialist evidence. This Evidences presented in the Court by the experts such as medical expert must be of great importance. It is based on scientific knowledge which may not be easily accessible or available to the persons having no technical knowledge, including the judges and so the opinion of the medical expert is always have an evidentiary value.

CONCLUSION

In India medical evidence can be taken as a corroborative value of evidence, which is conferred from indian Evidence Act, 1872. The medical evidence is regarded as opinion evidence plays an important and indispensable part of the evidence, particularly in cases of offences committed against women. Expert evidence is inevitable in criminal cases and accordingly the Government has established laboratories in the country and other institutions in the country are offering scientific service in the administration of criminal justice. Thus the researcher can finally conclude that in order to provide fair justice , the Evidence and witnesses are very necessary and they hold a very important place in the Law. With the help of Evidence the judge reaches a decision. The evidence heard by the court is the most important factor in determining whether the judgment will be in favour of Prosecution side or Defense side.

³¹ *piara singh vs state of punjab AIR 1969*

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