
COLLECTION OF EVIDENCE UNDER NEW CRIMINAL LAWS

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ABSTRACT

The collection of evidence forms the basis of the criminal justice system. It secures that investigations and trials are guided by facts rather than suspicion or conjecture. In this paper we are dealing with concept, scope, and legal framework governing the collection of evidence under Indian criminal justice system, with special reference to the Bharatiya Nagarik Suraksha Sanhita (BNSS). It examines what is the role of police, medical practitioners, magistrate, and forensic experts in collecting oral, physical, documentary, and digital evidence, it also focuses on the significance of judicial oversight and procedural safeguards. The study further deals with the evidentiary value of FIRs, statements made during inquest, police report investigation, and further investigation, relevant judicial precedents. Centre point of study is modern forensic techniques such as DNA analysis, ballistics, and digital forensics, fingerprint examination, which enhance accuracy and reliability in criminal investigations. The paper concludes that scientific, lawful and transparent evidence collection is essential and important to ensure fair trial, and to protect individual rights, and uphold the rule of law.

Keywords: Bharatiya Nagarik Suraksha Sanhita (BNSS), Criminal investigation, Forensic Science, Oral and Documentary Evidence, FIR, Police Investigation, Medical Examination, DNA Analysis Collection of Evidence, Criminal Investigation, Fingerprint Evidence, Ballistic Evidence, Digital Forensics, Chain of Custody, Admissibility of Evidence, Rule of Law

INTRODUCTION

Collection of evidence is an important step in any investigation. It ensures that the decision and judgments are based on facts rather than assumptions. The collection of evidence is a key step in forensic science and law enforcement. It ensures that physical and digital materials are properly handled to maintain integrity and admissibility in court.

EVIDENCE

Evidence is an instrument through which a fact is either proved or it is disproved. any material which is used in court of law to prove a fact or disprove a fact is evidence.

ORAL EVIDENCE SEC 2[1(E)I]

Every Statements including, statements given electronically which the court permits or requires to be made before it by witness in relation to matters of fact under inquiry and such statements are called oral evidence¹.

Documentary evidence(ii)-Every documents including electronic or digital records produced before court for inspection, such documents are called documentary evidence. Documentary it also includes primary and secondary evidence

COLLECTION OF EVIDENCE

The criminal law comes in motion when an offence is committed, and police initiated its process the first step is the registration of FIR under section 173 of BNSS, after that police starts investigation, this is the point where role of collection of evidence came into action.

Section 2(1)l of BNSS defines investigation includes all the proceedings under this sanhita for the collection of evidence conducted by police officer or by any person (other than magistrate) who is authorized by a magistrate in this behalf².

In case of H.N. Rishbud vs. State of NCT Delhi³ in this case court explains the meaning of term investigation it refers to moving towards the spot, ascertainment of facts and

¹ Bhartiya Sakshya Adhiniyam, 2023, section, 2

² Bhartiya Nagarik Suraksha sanhita, 2023 , section 2

³ H.N. Rishbud v. State of Delhi, AIR 1955 SC 196.

circumstances of the case, search and seizure and formation of opinion on the basis of materials collected

PROCEEDING FOR INVESTIGATION SEC.176 BNSS

It Provides that if the officer in charge of police station has reason to suspect the commission of an offence on the basis of information received or otherwise he shall forthwith sent a report to the magistrate who is empowered to take cognizance of such offence there after he shall either proceed to the spot himself or depute his subordinates to proceed to the spot⁴.

Section 176(3) provides that in case of an offence which is punishable with 7 years or more imprisonment the officer in charge of the police shall cause the forensic expert to visit the crime scene and collect forensic evidence he shall also cause the videography of the process.

WAYS FOR COLLECTION OF EVIDENCE

1.By Police And Magistrate- FIR, Examination of witness, police report, further investigation, inquest, letter of request, inquiry by magistrate into cause of death, custodial death, disappearance, or rape, search by police officer. Confession,

Evidentiary value of FIR- FIR is not a substantive piece of evidence. But it can be used for corroboration under section 160 of BSA, or it can be used to contradict under section 148 of BSA (matter of FIR) if FIR is a confessional FIR it can't be proved against the accused, informant as it would be hit by the section 23 of BSA.

Evidentiary value of statement made to police during investigation section 180 of the BNSS deals with examination of witness by police. It provides that any investigating officer may orally examine any person supposed to be acquainted with the fact and circumstances of the case such person is bound to answer every questions truly he may refuse to answer those question have tendency to expose him to criminal charge or forfeiture.

In *Nandni Sathpathi vs P.L. Dani*⁵ S.C. held that the term any person in section 180, includes any person who is accused of the offence.

⁴ *supra* note 2, section 176

⁵ *Nandini Satpathy vs. P.L. Dani*, AIR 1978 SC 1025.

If following condition fulfills then such statement can be used for contradiction in accordance with the section 145 of Indian evidence act.

1. Witness must have been called by the Prosecution.
2. Witness must have made a Statement to the Police officer.
3. Such statement must have been proved to be made by witness.

Discovery statements and dying declaration have been kept outside the bar contained in section 162 of IEA.

Police Report- A police report constitutes a vital legal document in the process of evidence collection and preservation during a criminal investigation. It serves as the *first formal record* of facts, observations, and material evidence under Section 154 and Section 157 of the Code of Criminal Procedure, 1973 (CrPC). The investigating officer is legally obligated to record information with accuracy, maintaining the *chain of custody* to ensure the integrity of evidence as mandated under the Indian Evidence Act, 1872, particularly Sections 3, 27, and 65B for documentary and electronic evidence.

Judicial precedents, such as *State of Uttar Pradesh v. Krishna Gopal* (AIR 1988 SC 2154)⁶ and *Khatri v. State of Bihar* (1981 SCR (2) 408), have emphasized the importance of prompt and truthful reporting by police officers. The evidentiary value of a police report lies in its objectivity and authenticity; while it is not substantive evidence, it aids the court in corroborating witness testimony and establishing the sequence of events, thereby strengthening the administration of justice.

Further investigation - Section 193(a) of BNSS permits further investigation by Investigating officer. even without the order of magistrate I.O. is free to conduct further investigation.

In case of *Ramlal Narang vs. State Delhi administration*⁷ and *Ram Chaudhary vs state of Bihar*, SC held that it is not necessary for I.O. to take formal permission but as a matter of prudence such permission must be taken.

⁶ State of Uttar Pradesh v. Krishna Gopal, AIR 1988 SC 2154.

⁷Ram Lal Narang & Ors. v. State (Delhi Admn.), AIR 1979 SC 1791.

In BNSS police can now conduct further investigation even at the stage of trial with the permission of court and such investigation can be completed within 90 days and it is also extendable by the court.

Inquest-section 194 of the Sanhita relates to ascertainment and finding of apparent cause of death it is to find out whether the death is accidental, suicidal, homicidal or caused by animal or instrument inquest can be made by any person officer in charge of police station, police officer specially empowered by state govt in this behalf , it is prepared by the Police officer after investigating into the apparent cause of death in presence of two Inhabitants of locality. Report must be immediately forwarded to district magistrate or sub divisional magistrate.

Inquiry by Magistrate into cause of Death- custodial death, disappearance or rape-section 176 enables magistrate to hold an independent inquiry in case of suspicious death magistrate can hold inquiry in addition to or instead of inquiry by the police, section 176(1A) provides that if a person died in custody disappears from custody or rape is alleged to have been committed on any women in custody then an inquiry shall be held by the judicial magistrate within whose local jurisdiction offence has been committed. Such inquiry shall be in addition to inquiry or investigation made by the police.

Letter of request- section 112 and 113 of Sanhita provides for letter of request, letter of request is a letter issued by court in one country to another country for the purpose of collecting evidence and transmitting it to the court.

Search by police- section 185 of the Sanhita provides for the search by the police officer whenever investigating officer have reasonable ground for believing that anything necessary for purpose of investigation may be found within the limits of his police station he shall record in writing his belief and specify the thing to be searched and thereafter proceed to search that place, it must be noted that the search shall be conducted in the manner given under section 103 of BNSS.

2. By medical practitioners and experts- Medical examination, Postmortem, DNA analysis, fingerprint analysis, ballistic evidence, Digital forensic, admissible under section 45 of Indian evidence act

Medical examination - section 184 BNSS and 52 of BNSS provide for medical examination

of the victim of rape and accused of rape respectively by govt doctor and in absence of govt doct. any medical practitioner in case of victim such examination shall conducted with the consent of women or consent of any other person competent on the behalf of the women to give consent, in case of accused there is no role of consent and police can use reasonable force for such examination, and the objective of such examination is to collect evidences which can be used at the stage of trial⁸.

Postmortem- it is necessary in following circumstances

1. In case of suicide of women under the 7 years of marriage
2. In case of death of women within the 7 years of marriage in suspicious circumstances.
3. Death of women within the 7 years of a marriage, where any relative of the women makes a request in this behalf.
4. If there is any doubt regarding the cause of death
5. If the police officer for any other reason, consider it do so.

DNA Analysis –

DNA analysis is a scientific method used to identify individuals based on their unique genetic makeup. Every person has distinct DNA except identical twins which makes it a powerful tool in solving crimes. Forensic experts collect DNA samples from sources like blood, saliva, or hair found at crime scenes. By Using techniques such as PCR and STR profiling and they compare these samples with suspects or database records. DNA evidence helps in confirming identities, to link criminals to a scene, or prove innocence and guilt. it requires careful handling and precaution to avoid contamination and maintain accuracy in the pursuit of justice.

Fingerprint Analysis –

Fingerprint analysis is one of the oldest and reliable identification methods in forensic science. Each person has unique and definite fingerprint patterns loops, whorls, and arches that remain unchanged throughout life. Investigators collect fingerprints left on surfaces of crime scene

⁸Bhartiya Nagarik Suraksha Sanhita, 2023 section 184 and 52

using powders, chemicals, or digital scanners. After that These prints are compared with records in databases like AFIS to find matches. Fingerprint evidence helps to establish connection between suspects to objects or crime scenes. While ineffective, poor-quality or partial prints can pose challenges. Nevertheless, fingerprint analysis continues to be a important technique for linking evidence to individuals with both precision and credibility.

Ballistic Evidence

Ballistic evidence includes studying firearms, bullets, and ammunition to determine their role in a crime. When a gun is fired, then it leaves unique marks and patterns on bullets and casings. Forensic experts analyze and studies these microscopic markings to match a bullet to a specific weapon. Ballistics can also help in determining shooting distance, trajectory, and the number of shots fired during incident. Experts use tools like comparison microscopes and digital databases, investigators reconstruct events and verify weapon use. Though complex, ballistic evidence provides vital and important insights in gun-related crimes, turning spent shells and bullets into crucial and important clues for uncovering the truth.

Digital Forensics-

Digital forensics focuses on uncovering, examining and analyzing electronic data which is used in legal investigations. Experts examine devices like computers, phones, and cloud storage to retrieve deleted files and information trace communications or detect cybercrimes. Every digital action leaves a footprint behind, which investigators follow using specialized tools and software to know the truth, This field helps in solving crimes involving hacking, fraud, or digital harassment, and even supports traditional cases through online evidence. Maintaining data integrity and respecting privacy. Digital forensics blends technology with investigation, ensuring that digital evidence tells an accurate story in today's technology-driven world⁹.

Conclusion –

The collection of evidence is the backbone of every criminal investigation and trial and play crucial role. It transforms mere suspicion into proof and evidence, ensuring that justice is grounded in truth rather than conjecture. From the initial stage of registration of an FIR to the

⁹ Casey Eoghan, *Digital Evidence and Computer Crime: Forensic Science, Computers, and the Internet*. Academic Press, 3rd, 2019.

examination of witnesses, searches, forensic analysis, and expert opinions every step in the process aims to uncover facts that establish guilt or innocence of the accused. The Bharatiya Nagarik Suraksha Sanhita (BNSS) strengthens this process by emphasizing scientific methods such as DNA profiling, fingerprint analysis, ballistics, and digital forensics, securing greater accuracy and transparency in investigations. Which is equally important in the lawful handling and preservation of evidence to maintain its credibility and admissibility in court of law . Judicial precedents have consistently underlined that improperly collected or tampered evidence weakens the foundation of justice and decreases the reliability of evidence. Hence, investigators and experts must follow due procedure, proper care and safeguard the chain of custody, without harming individual rights during collection. In essence, the collection of evidence bridges the gap between crime and conviction and helps the court in forming an opinion. It safeguards and protect both society and the accused by upholding the principle that no one should be punished without proof and ensures principal of justice. A fair, scientific, and transparent evidence-gathering process ultimately ensures faith in the legal system and strengthens the rule of law and principles of justice.