SCIENTIFIC EVIDENCE IN CRIMINAL TRIALS- NARCOANALYSIS

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INTRODUCTION

The legal systems must adapt themselves to the changing condition of the society. The judiciary and the legislature have the duty of amending the prevailing laws from time to time as per the need of the nation. The inquiry, the investigation and the execution processes must be in synchronization.79 If the criminals adhere to new methods or technologies for committing a crime, then the investigating agency must also rely upon new techniques to resolve them. If the investigating agency does not take necessary measures on time, then the crime rates will gradually increase.80 According to Justice Krishna Iyer, if the courts allow the culprit to run away the justice under the influence of the golden rule of jurisprudence then it would in a way self-criminate themselves.81

India has experienced immense development in science and technological sectors for the past few years. Such advancements have also been introduced in the legal system for its smooth functioning.82 Science is now used as a mean to produce evidence in criminal cases. Previously, the criminal justice system vividly relied upon non-scientific modes of evidence such as documentary evidence and depositions by eye-witnesses.83 However, now several scientific modes of evidences are introduced in the criminal trials including- Narcoanalysis, Polygraph Tests, etc.84

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78 3rd year BBA-LLB, symbiosis Law School, Hyderabad
80 Id.
82 South Asia Human Rights Documentation Centre, Narcoanalysis- A Dangerous Mirage, Economic & Political Weekly, Volume 42, No. 27/28, Pp 2857-2859
83 Id. p. 2860
84 Id.
The Forensic Science Laboratories now play a huge role in the investigation procedure. The DNA Technology has made it possible to resolve those cases which remained dead due to insufficient evidences.\textsuperscript{85}

Out of other scientific modes of evidences, narcoanalysis has been introduced recently in Criminal Trials. When all other forms of evidence fail to provide sufficient lead, the narco-analysis test is resorted. However, such tests merely assist the on-going trial and its status of admissibility is still under doubt.\textsuperscript{86} The Indian Evidence Act, 1872 does not explicitly talk about the administration of scientific evidences upon the accused\textsuperscript{87} and such techniques are often criticized on the grounds of infringement of constitutional and other rights.

The ultimate responsibility of maintaining the crime rates in control rests in the hands of the State. If a crime is proved in the court, the penalties must also be provided as per the laws prevailing in the state. Deviations from this responsibility can only be accepted in unavoidable circumstances.\textsuperscript{88} The Court however, has the discretionary power of admitting or rejecting certain relevant facts. In the case of \textit{State v. Pitts},\textsuperscript{89} the court rejected the statements of narcoanalysis report since it was not an appropriate form of scientific evidence.

After various debates on this particular topic, the court has now allowed the narcoanalysis test to be performed on the accused only in certain exceptional cases and under the guidance of experienced medical practitioners. In the case of \textit{Selvi Murugeshan v. State of Karnataka},\textsuperscript{90} Justice Majage decided in favour of the narcoanalysis test observing that the test is valid if the accused had consented to it.

Apart from India, several other countries have also resorted to the practice scientific evidence, especially narcoanalysis test. In \textit{Indianpolis v. Edmond},\textsuperscript{91} the US court observed that in cases of terrorism or other heinous offences, the narcoanalysis test may be performed without any prior

\textsuperscript{86} Id., p. 342
\textsuperscript{87} See, \textit{Indian Evidence Act}, 1872
\textsuperscript{88} Supra note 1
\textsuperscript{89} \textit{State v. Pitts}, 116 NJ 580, 562 A. 2d 1320 (1989)
\textsuperscript{90} Unreported
permission. From the judgement, it could be inferred that the general interest must be prioritised over any single interest i.e., when the safety and economy of the state is at risk, any necessary means can be adopted to bring out the true statements.\footnote{Id.}

This research paper has been divided into various chapters for the ease of understanding. The paper would beneficial not only to the judiciary but also to the academicians, law students, researchers and the public at large to understand the concept and implications of scientific evidences in criminal investigations. The paper has been made with the objective of analysing the procedure of narcoanalysis test and to ascertain its validity in the parameters of Constitutional and legal provisions of India. Narco-Analysis and other scientific evidence collection methods have a tendency of conflicting with certain Human Rights norms; the same shall be understood in the paper. Towards the end, the paper would include the grounds on which the test has been criticised and the conclusions drawn from the research.

LITERATURE REVIEW

Out of all other components in a research paper, Literature Review tends to be one of the most significant. It allows the researcher to go through ample numbers of books, articles, journals, on the assigned topic and review them with his own findings. There are very limited numbers of research paper available on this particular topic. In the available papers, the researchers have mostly considered the aspects of historical background, constitutionality and criticisms of “Scientific Evidences- Narcoanalysis”. Some of them are reviewed for carrying out the present research work.

In “The Admissibility of Scientific Evidence in Criminal Cases”\footnote{Fred E. Inbau, The Admissibility of Scientific Evidence in Criminal Cases, Law and Contemporary problems, Vol. 2 No. 4, 1935, pp. 495-500.}, Fred E. Inbau firstly highlighted the theory and historical background of scientific evidence by citing decided case laws. Thereafter, he discussed the instances in which the court accepted scientific evidence without any hesitation. The importance of scientific evidence in criminal trials was also pointed out stating how
it differs under various judicial systems. Towards the end of the paper, the author suggested several reforms for combatting the problems related to scientific evidence.

In “Scientific Documentary Evidence in Criminal Trials”94, C. Ainsworth Mitchell apart from highlighting the significance of scientific documents also laid down the validity of the reports obtained from scientific tests. The author pointed out the benefits of such tests when all other kinds of evidence fail to provide sufficient lead. This article has enabled the researcher to understand the nature and extent of admissibility of various test reports as an evidence in the court of law.

In “The Ferreira Case: All that is wrong with torture and Narcoanalysis”95 SAHRDC discussed the landmark case of Arun Ferreira and the serious implications of performing narcoanalysis test on the accused. The article criticised narcoanalysis and other related tests on the ground that it violates the fundamental rights and other legal rights of the accused.

In “Narcoanalysis”,96 Sanjay Tiwari has further discussed the impact of such tests on the human rights provisions. The author depicted the negative sides of conducting these harmful tests and how it leads to the denial of due process rights. However, the article did not include the necessary reforms that can be introduced for these scientific techniques.

In “Narcoanalysis in Law Enforcement”,97 Andre A. Moenssens described the method and procedure in which narcoanalysis test is conducted upon the accused or witness. The author stated the guidelines that are to be followed while performing this test including the prior consent of the accused, permission of the court and proper medical and other facilities. The article included both the positive as well as negative aspects of the test. However, questions pertaining to the evidentiary value were hardly discussed.

In “Indian Constitutional Law”,98 M.P. Jain has elaborated the concept of self-incrimination under Article 20(3) of the Constitution. The author has also highlighted the cases under which tests like narcoanalysis attempted to violate the rights guaranteed under the Indian Constitution.

94 Supra note 7
After reviewing the various literatures, it appeared to the researcher that all the works undertaken so far are based on old sources and no such research has been conducted in the present days. Important aspects like evidentiary value of scientific tests and human rights violations are hardly discussed. Therefore, the prominent research gaps are listed as follows:

1. The immense growth of scientific evidences in criminal cases.
2. Conformity of the narcoanalysis test with constitutional and legal provisions of India.

The present research paper has bridged the gaps that have been laid down by covering these topics.

RESEARCH METHODOLOGY

Since the particular topic is descriptive in nature, the researcher has relied upon the doctrinal method. Various statutory provisions and landmark judgements has been referred to for understanding the concept and role of Scientific Evidences in Criminal Trials. The bare acts and commentaries on Constitution of India, Code of Criminal Procedure Code and Indian Evidence Act have been referred for the purpose of studying the legality of such Test under the Indian Laws. Several books, essays, research papers, articles, law journals, newspaper reports and E-resources are used to gather information about the status of admissibility of Scientific Evidences particularly Narco-Analysis Test in the Indian Criminal Courts.

Data collection method is usually of two types- primary and secondary. Primary data refers to those materials which are first hand i.e., such data is directly collected by the researcher for the particular study. Secondary data on the other hand refers to pre-existing data i.e., such data is already used for certain purpose and the researcher has relied on it for the particular study. In order to study the given topic, the researcher has relied upon primary data in the form of bare acts and decided judgements as well as secondary data in the form of books, journals and articles.

RESEARCH QUESTIONS

The paper shall be discussing the below-mentioned research questions:

1. What is the role and importance of scientific methods of providing evidence in criminal courts?
2. What is the status of admissibility of Narcoanalysis Test results in Indian Courts?
3. What are the various grounds on which the Narcoanalysis Tests have been criticized?

I. SCIENTIFIC EVIDENCE IN CRIMINAL TRIALS

The content of evidences and the manner in which it is submitted before the court of law is governed by the rules of evidence.\(^9^9\) Such rules play a vital role in criminal trials as it ensures a fair and speedy trial for both the parties involved in the case.

Scientific evidence refers to those facts and statements which are extracted by means of science.\(^1^0^0\) Although some scientific evidence like DNA reports and fingerprint samples are admitted in the Court, depositions taken under the effect of unconsciousness are generally avoided. When a question pertaining to the reliability of scientific evidence arises during trial, the decision given by the bench stands to be final.\(^1^0^1\) Such decision depends largely upon his degree of trust on the evidence put forth.

Although the most preferred form of evidence is considered to be direct evidence,\(^1^0^2\) there can be several shortcomings associated with it. Such barriers usually relate to the short-term memory of the witness, long gap between the occurrence of the incident and the trial, unsoundness of mind, tender age, incomplete observations, partiality towards one party, etc.\(^1^0^3\) If scientific evidence is properly implemented in criminal trials, then these shortcomings can be easily combatted.

In the case of *State of U.P. through CBI v. Rajesh Talwar & Another*,\(^1^0^4\) a young girl was found dead in her home. The Court initially suspected the servant of the house since he could not be found after the incident. However due to lack of evidences, the suspicion shifted to the parents of the deceased. The CBI performed several scientific tests relating to DNA, fingerprints for ascertaining the truth. The parents of the deceased had to undergo narcoanalysis test but no evidence could be gathered against them.

\(^{1^0^0}\) Id.  
\(^{1^0^1}\) Supra note 4  
\(^{1^0^2}\) See, Section 60 of Indian Evidence Act  
\(^{1^0^3}\) Supra note 21  
\(^{1^0^4}\) State of UP through CBI v. Rajesh Talwar & Another, 2013 (82) ACC 303
In another case of *Sr. Sephy v. Union of India*,\(^{105}\) the deceased went towards the kitchen at night and was murdered there. Her dead body was found on the next day in front of her hostel boundary. The police arrested two members of the church on the basis of scientific evidences like DNA tests, Polygraph, Narcoanalysis, etc.

Further, in the case of *State of Bombay v. Kathi Kalu Oghad*,\(^{106}\) the court observed that the mechanical way of giving evidences in the court of law does not come under the purview of self-incrimination. Such evidences are not given as personal testimony of the accused but are rather in the form of signature, fingerprints, palm-prints, thumb impressions, etc.\(^{107}\)

- **BENEFITS OF SCIENTIFIC METHODS OF PROVIDING EVIDENCES IN CRIMINAL TRIALS**

Scientific evidence plays a major role in giving conclusiveness to a fact or circumstances. Unlike other types of evidences, a scientific evidence is purely based on technological means and therefore cannot be manipulated or converted as per one’s whims and fancies.\(^{108}\) For example, in a case of murder, the footprints found at the location acts as an effective evidence in the continuation of trial. Also, if the police identify the possible suspect for the crime then he may perform several tests upon him to extract the evidence.

The scientific investigation is usually of two types. If the testimony of a witness is taken by administration of certain scientific tests then it is recognized as direct whereas, if some hint is gathered for further investigation, then it is regarded as indirect evidence.\(^{109}\) However, a scientific evidence in the nature of confession given in the presence of a police cannot be admitted in the Court of law.\(^{110}\)

- **VALIDITY OF SUCH EVIDENCES**

Although scientific evidence increases the efficiency of the trial, the outcome of such tests are usually not reliable. The statements can be made out of fear or under the dose of chemicals. Further,

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\(^{105}\) *Sr. Sephy v. Union of India*, 2009 (1) K.H.C. 121

\(^{106}\) *State of Bombay v. Kathi Kalu Oghad*, AIR 1961 SC 1808

\(^{107}\) Id.

\(^{108}\) Supra note 19

\(^{109}\) D. H. Kaye, The Admissibility of Probability Evidence in Criminal Trials, Jurimetrics, Vol. 27, No. 2, pp. 163

\(^{110}\) Section 25 and 26 of Indian Evidence Act, 1872.
such evidence must also pass the test of Article 20(3) of Indian Constitution\textsuperscript{111} which prohibits forceful extraction of evidences.

The final authority on whether to rely upon the scientific evidence or not depends solely on the jury who shall scrutinize each and every tests and its mode of administration before coming to a conclusion. When all the ordinary evidences fail to resolve the case and the crime involves extreme seriousness then such evidences are usually relied upon.

II. NARCO-ANALYSIS TEST: INDIAN SCENARIO

Narco-analysis is one of the most debated techniques of putting forth evidence in criminal courts. It has always been on limelight because of the social, legal and moral issues associated with it. The test is usually employed upon the accused to extract information by making him subconscious. The information and statements so gathered might be presented as scientific evidence in the court of law.\textsuperscript{112} Implementation of such scientific tests for acquiring evidence is restricted in several countries across the Globe.

The main objective behind narcoanalysis test is that a person can give false statement in his normal senses. However, when he is injected with certain psychotropic drugs, his ability to lie diminishes and he comes into a semi-conscious zone.\textsuperscript{113}

In around 2002, the test was first introduced in India through the \textit{Godhra Case}.\textsuperscript{114} The tests are performed by a Forensic expert and the reports usually comprises of the findings and the audio or video file of the test.\textsuperscript{115} Although such tests are appreciated in several cases but there exist controversies regarding its validity.

In the case of \textit{Abhay Singh v. State of UP},\textsuperscript{116} the court observed that if the results of the scientific tests like narcoanalysis leads to the ascertainment of truth then they must be admitted in the court without any restrictions.

\textsuperscript{111} Article 20(3) of the Indian Constitution, 1950.
\textsuperscript{112} Supra note 19
\textsuperscript{113} Id.
\textsuperscript{115} Supra note 18
\textsuperscript{116} Abhay Singh v. State of UP, 2009 Cri LJ 2189
In another case of *State of Andhra Pradesh v. Inapuri Padma*,\(^\text{117}\) it was observed that if the witnesses do not give their consent for narcoanalysis test then the police must approach the court and take its permission before administering the drugs.

### MODE OF CONDUCTING THE TEST

The narcoanalysis test first requires the preparation of the drug which is made from various chemicals like Sodium Pentothal, Sodium Amytal and distilled water. Before injecting the solution, it is necessary to examine the accused as there might be certain medical grounds on which he could be exempted from undergoing the test.\(^\text{118}\) Such test should be done cautiously after analysing the fitness of the accused.

Once the solution gets dissolved in the blood of the accused, his ability to perceive and understand the current situation diminishes. The drug affects the nuclear particles of the body as a result of which, he speaks only the facts which he knows without fabricating them.\(^\text{119}\) Only medical practitioners, hospital staffs, psychiatrist, audio recorder/video recorder are allowed inside the premises when the test is being conducted. At the end of the proceedings, all the conclusions are stored and the relevant ones are produced before the Court of law.

In the case of *Santosh Sharmanbhai Ladeja v. State of Gujarat*,\(^\text{120}\) the court observed that the test of narcoanalysis is conducted with increased cautiousness under the guidance of several medical experts and hence, no harm is inflicted upon the accused. It was also held that such evidence can be considered by the court while making decision.

### ADMISSIBILITY OF THE FINDINGS OF THE TEST IN CRIMINAL COURTS

Narcoanalysis test is often contested on the ground that it infringes the fundamental rights of the person on whom such test is administered. Further, the solution so injected in the body of the accused does not always provide the correct answer.\(^\text{121}\) There have been various research works and discussions on this particular issue. In the international case of *Townsend v. Sain*,\(^\text{122}\) the court

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\(^{117}\) *State of Andhra Pradesh v. Inapuri Padma*, 2008 Cri LJ 68

\(^{118}\) Supra note 18

\(^{119}\) Id.

\(^{120}\) *Santosh Sharmanbhai Ladeja v. State of Gujarat*, 2007 Cri LJ 4566

\(^{121}\) Supra note 19

\(^{122}\) *Townsend v. Sain*, 372 US 293 (1963)
observed that if at any point, it appears that the evidence was taken forcefully by the police and the drug was injected without the consent of the accused then such statements will not be admitted in the Court as per the Constitution.

However, in the case of Ramachandran Reddy v. State of Maharashtra, the High Court of Bombay observed that the statements gathered under the influence of narcoanalysis test can be admitted in the court of law as a valid evidence. It was also held that since the criminals are resorting to newer methods of committing crimes, the investigating process must also go in the same pace.

III. NARCO ANALYSIS TEST VIS-À-VIS INDIAN LAWS

Among all other countries, Narco-analysis is quite prominent in India. Through the Nithari serial killing case, the test came into mass attention. In this case, the accused had disclosed the identity of several persons whom he had murdered. The results although were not entertained in the court of law but helped the police in the investigation procedure. In the case of Md. Ajmal Md. Amir Kasab v. State of Maharashtra, the test was performed upon Md. Kasab during the time of interrogation.

• CONSTITUTION OF INDIA

If the narco-analysis test is administered upon the suspected without his/her consent then it infringes his protection against self-incrimination enshrined under Article 20(3) of the Indian Constitution. The main objective of this clause is to extend protection to the accused in the current and future investigation proceedings. The apex court has in various cases laid down that “witness” constitutes of several kinds of evidences meant to aid the prosecution case. However, it is important to note that the protection under this section can be only resorted if the person is an accused at the time when he was compelled and not at a later stage.

123 Ramachandran Reddy v. State of Maharashtra, 2004 All MR (Cri) 1704
126 See, Article 20(3) of Indian Constitution, 1950
127 “Nemo Tenetur Seipsum Accusare”
129 Supra note 28
If the accused makes certain basic revelations during the investigation period, then it will not come under the purview of Article 20(3) as the same has not been obtained by means of force. In the case of *Dinesh Dalmia v. State of Maharashtra*, the court observed that during narcoanalysis, all the answers are given by the accused as per his own wishes, there is no external force compelling him to disclose. In another case of *Rojo George v. State of Kerala*, the accused filed a petition refusing to undergo narcoanalysis test on the ground that it is unscientific in nature. The Court however dismissed the petition relying on the precedent of *Oghad’s case*.

The test is also regarded as an infringement of the Right to Life and Right to Privacy enshrined under Article 21 of Indian Constitution. In the case of *District Registrar and Collector v. Cannara Bank*, the court observed that privacy is an essential part of right to life and the same has been identified by the Constitution.

- **INDIAN EVIDENCE ACT**

The oral statements and documents provided before the Court of law comes within the meaning of evidence under Section 3. However, the question regarding the permissibility of narcoanalysis test as a valid evidence depends upon several requirements.

If the accused, while being in the police custody, discloses certain facts in regards to the commission of the offence, then the same can be acknowledged by the court under Section 27 of Indian Evidence Act. This section shall be applicable even if the statement made by the accused is incriminating in nature under Art. 20(3) of Indian Constitution. Further, evidence obtained through scientific methods like narcoanalysis are also allowed in the court under this particular provision.

However, under no circumstances, the statements can be obtained by means of coercion. If at any point of time, the court realises that the evidence is gained out of compulsion without the free will

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130 Veera v. State of Maharashtra, AIR 1976 SC 1167
132 Rojo George v. State of Kerala, 1979 KLT 337
133 See, Article 21 of Indian Constitution, 1950
134 District Registrar and Collector v. Cannara Bank, (2005) 1 SCC 496
135 Section 3 of Indian Evidence Act
136 Section 27 of Indian Evidence Act, 1872
of the accused then it will be discarded. If Section 25 and Section 26 of Indian Evidence Act\textsuperscript{137} is carefully analysed, then it appears that the statements made by accused in police custody cannot be used against himself. The main object behind this section is to remove the chances of false testimony extracted through torture and brutality during police investigation.

- **CRIMINAL PROCEDURE CODE**

In both criminal investigations and trials, forensic science plays a huge role. Section 53(1) of Criminal Procedure Code\textsuperscript{138} states that the accused can be subjected to medical tests for extracting evidence. After the amendment of Section 53 in 2005, narcoanalysis test and several other scientific methods were also recognized as a mode of evidence under CrPC. In the case of *Anil A. Lokhande v. State of Maharashtra*,\textsuperscript{139} the court observed that a person can be medically examined in any manner that best fits the extraction of evidence.

Another provision that values the protection against self-incrimination is Section 161(2) of the CrPC.\textsuperscript{140} It states that a person has the duty of mentioning all the relevant facts of the case before the police however, if any question tends to go against him then he may remain silent and avoid answering that question. In the case of *Nandini Satpaty v. P.L. Dani*,\textsuperscript{141} the court observed that forceful collection of scientific evidence through narco-analysis violates Right to Silence guaranteed under Section 161(2) of CrPC. However, in another case of *PUCL v. UOI*,\textsuperscript{142} the Supreme Court observed that if such right is granted then the police would be left with no sufficient means of cross-examination and the case would go wrong against the prosecution.

While administering any scientific test, the authorities must not cause any hurt otherwise, they can be held liable under Section 330 and 331 of Indian Penal Code, 1860.\textsuperscript{143} A person must be prosecuted and tried as per the due process of law. One of the major aim of Criminal Procedure Code is to render fair trial to the parties involved.

\textsuperscript{137} Section 25 and 26 of Indian Evidence Act, 1872
\textsuperscript{138} Section 53(1) of CrPC
\textsuperscript{139} Anil A. Lokhande v. State of Maharashtra, 1981 Cr. LJ 125(SC)
\textsuperscript{140} Section 161(2) of Criminal Procedure Code, 1973
\textsuperscript{141} Supra note 2
\textsuperscript{142} PUCL v. UOI, AIR 1991 SC 207
\textsuperscript{143} Section 330 and 331 of IPC, 1860
• NATIONAL HUMAN RIGHTS COMMISSION

In order to conduct the scientific tests like narcoanalysis, a person is subjected to strong dose of drugs and other medicines. This is often argued as an infringement of basic human rights. The NHRC has laid down several recommendations to be followed while conducting these tests.\footnote{144} Such recommendations include prior permission of the court, due acknowledgement of the accused, reason for conducting the test and proper availability of medical facilities.\footnote{145}

IV. CRITICISM OF NARCO-ANALYSIS TEST

The Narco-analysis test is often criticized on various grounds. Firstly, the result of the test is not something that can be completely relied upon. It has numerous flaws. There are instances when the results gathered out of the test are proved to be false i.e., even after implementing the drugs upon the accused, he tends to give false information.\footnote{146} This not only takes the case in a wrong direction but also undermines the judgement. Further, if a person is well-aware of the previous errors committed in this particular test then he might not be ready for it. For example, if ‘A’ can estimate the failure of this technique then he might not consent for it.

Police often use narcoanalysis test very haphazardly for completing the investigation procedure as early as possible. They tend to deviate from the traditional method of inquiry by resorting to scientific means thereby harming the body and mind of the accused.\footnote{147} This is yet another important ground of criticising this test. The reports of scientific tests like narcoanalysis obtained without the consent of the accused were criticized by the three judge bench in the case of Selvi v. State of Karnataka\footnote{148} for being unconstitutional in nature.

During the process, the injected drugs tend to cause several damage to the body organs of the accused. The chemicals render a person unconscious without letting him feel any pain.\footnote{149} This, although looks easy, can cause severe neurotic and respiratory problems. A person can also get

\footnote{144} National Human Rights Commission India, Manual on Human Rights for Police Officers, 2011
\footnote{145} Id.
\footnote{146} Supra note 17
\footnote{148} Selvi v. State of Karnataka, AIR 2010 SC 1974
\footnote{149} Supra note 69
paralysed due to overdose of these drugs. The test disables the mental capacity of a person whereby; he does not have any control over his actions or sayings.\textsuperscript{150}

The amount of drug must be carefully administered keeping in mind the enduring capacity of the accused. A light dose of “barbiturates” causes only temporary malfunctioning of the nervous system whereas, a higher dose may lead the accused to coma or even death.\textsuperscript{151} If the test is not performed with prior consent and under the supervision of medical experts, then there are high chances of failing this test. Further, the accused must go through a proper medical test for checking any diseases that he/she had previously been inflicted to.

In the case of Ferreira,\textsuperscript{152} the accused was arrested on several irrelevant grounds and there existed many discrepancies in the filing of the case. The police used to inflict both physical and mental torture upon the accused. In the custody, he was repeatedly slapped, punched and lashed. Further, the police forced him to undergo narcoanalysis test in spite of his refusal.\textsuperscript{153} These measures by the police were highly criticized as being violative of constitutional and human rights.

The main objective behind the narcoanalysis test is to bring out those facts which the accused would not say in his normal senses. It in a way attempts to reinstitute the long lost memories. However, performing the test with the aim of making the accused confess his crime shall not be allowed as an evidence. If the analysis is not properly conducted, then the accused may refrain from saying the true incident and thereby mislead the court in wrong directions. In many judgements, the court has held that these scientific evidences shall never be used as a tool to effectuate the ongoing investigation.

\textbf{CONCLUSION AND SUGGESTIONS}

With the changing nature and grievousness of crime, the laws must also change. If the criminals undertake new scientific and technological means of committing crimes then, the legal system must also adapt to such techniques for investigation and execution. Both the Central as well the State authorities must work as a team to upgrade the existing investigating techniques. Further, clear-cut guidelines must be provided as to the necessity and consequences of performing

\begin{flushleft}
\textsuperscript{150} Id. \\
\textsuperscript{151} Id. \\
\textsuperscript{152} Supra note 17 \\
\textsuperscript{153} Id.
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narcoanalysis test on the accused. The legislature must also keep in view the fundamental rights of the person while formulating the regulations.

The Supreme Court has always emphasized on the fact that ascertainment of truth and punishment the offenders are two main factors that criminal law process aims to achieve.\textsuperscript{154} Once the wrongdoer has been identified, he cannot be set free without delivering appropriate justice.

Regarding the validity of scientific tests like narcoanalysis, the court always had a controversial opinion. In some cases, it has been upheld as an important tool for ascertaining the actual truth whereas, in some cases the test has been criticised for violating the fundamental and legal rights of the accused. On a close inspection of both the scenarios, it appears that in most of the cases the test has provided some sort of lead in the trial, i.e., even if no conclusive evidence is recovered, the results of the test has provided some evidence for further investigation. In many instances, the test result on corroboration with other evidences and testimonies has lead to the final solution.

As per the provision of Article 20(3) of Indian Constitution, a person can be given the protection against self-incrimination only if he has been subjected to force or compulsion. The section does not identify those circumstances where the statements were given freely with the accused’s own consent. Thus, if the court is satisfied that the test has not been performed forcefully then the results of the same can be made admissible as a valid evidence.

When the case relates to high-profile crimes (hard-core criminals) or crimes involving threat to the country’s security then it becomes essential to resort to exceptional methods of investigation. However, if in such scenario, the fundamental rights of the accused acts as a barrier then the same must be given a broader interpretation i.e., the fundamental rights must be adapted in accordance to the dynamic situations. When the judiciary is vested with the duty of not punishing the innocents, it is also given the responsibility to make sure that an offender does not escape the punishment. Both are of equal importance to the legal system and to the society.

In the case of \textit{Arun Gulab Gavali v. State of Maharashtra},\textsuperscript{155} the court observed that there is a huge duty casted upon the investigation department to bring out all the evidences and witnesses before the court. Further, while investigating the case, the personnel can inquire any aspect of the

\textsuperscript{154} Supra note 15
\textsuperscript{155} Arun Gulab Gavali v. State of Maharashtra, 2006 Cri LJ 2615
crime and the same cannot be questioned on the basis of the right to life and personal liberty under Article 21 of the Constitution.

On the basis of the research work and conclusions drawn, the researcher has formulated few suggestions which can be implemented for the greater good of the justice system-

- A set of guidelines must be laid down as to the use and misuse of scientific tools in collection of evidence.
- A broader interpretation of the statutes for including the technique of narcoanalysis or other scientific methods must be given.
- Judiciary shall interfere into the investigating manners only if the same leads to gross violation of the rights of accused.
- Proper education and training must be given to be investigating department for handling these tests without causing any physical or mental harm to the accused.
- The legislature should pass an enactment which will solely regulate the evidences obtained by means of scientific techniques.