

Article On Evidence Act With Special Focus To A Person Jailed For Killing His Wife With Cobra

In our day to day life we notice various incidents of snake biting which lead to the death individuals but a recent news about a person using Cobra for killing his wife has been in the limelight. The case is known as Uthra's case i.e. State of Kerela v. Suraj. S. Kumar in which the court in its judgement has laid down that this is a case of diabolic and ghastly uxoricide, committed stealthily, by inflicting induced cobra bites causing fatal envenomation, with extreme wickedness, to disguise it as a death due to accidental Cobra bite.

In the present case, deep analysis over the various provisions of evidence act in relation to the case has been done by the court to ensure that there should be fair trial and accused will not be released merely because of the lack of evidences. The court itself has noted in its order that *"In this case there is no direct evidence regarding the act which caused death of deceased i.e. Uthra. The prosecution has relied on the circumstances and scientific evidence to prove that Uthra died due to Cobra envenomation."*

Facts of the case

In the present case, accused (Suraj) married the deceased (Uthra) who was differentially abled lady in 2010 with intent to have financial gain. They also have a child out of the wedlock but the accused was dissatisfied with the condition of the deceased and hence planned to get rid from her in such a way that he will not get suspected and will also enjoy the financial gain. In order to carry out his plan, he decided to kill to his wife through the venomous snake bite for which he surfed the internet and also the YouTube channels and later got acquainted with the person who had expertise in handling and capturing venomous snakes.

Accused had made two previous attempts for murdering his wife but in the first attempt she saw the snake and has raised alarm calls after which accused captured the snake in the sack. The accused was merely successful in the second attempt as the deceased was taken to hospital on time where she undergoes the treatment for 52 days under which skin grafting was done in her leg and was non-ambulant at the time of discharge. While the deceased was in course of recovery, one day accused purchased the cobra snake from a person and kept the snake hungry and in night gave juice mixed with sedative tablet, when she was fast asleep in the night hours, he took the cobra out and with an intent to murder his wife caused the snake to bite twice on the left arm to ensure her death caused by envenomation after that removed all the evidences related to his crime. Later, the family members of deceased lodged a complaint against the accused based on suspicion for killing their daughter.

The court in its judgment has put emphasis on certain provisions of evidence act which has helped the court to reach its verdict and they are:-

- S.45 of the acts is about ***Opinions of experts*** which states that *"When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of hand writing or fingerimpressions, the opinions upon that point of persons specially*

skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions, are relevant facts. Such person called experts”.

- S.46 of the act deals with ***Facts bearing upon opinions of experts*** which state that *“Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant”.*

The illustration provided under section 45 and 46 of Evidence Act makes it clear that, when the question is whether death of a person was caused due to poison, the opinion of experts as to symptoms produced by the poison by which death was caused are relevant. Under section 46 collateral facts which support or are inconsistent with the opinion of experts are also relevant. Detection of traces of venom, a type of poison, from the bodily tissues and blood of the victim, is a scientific analytical process, which requires special skill and scientific knowledge. So also the effects of the venom and symptoms it causes on the living body, the method of delivery of venom on the body of the victim etc., are matters which require in depth knowledge and experience on the point.

Therefore, the opinion of experts on these points is necessary to aid the court in forming an opinion. The evidence of Experts is to a large extent advisory in nature for the purpose of aiding the Court. The Court must derive its own conclusion upon considering the opinion of the experts which may be adduced by both sides, cautiously, and upon taking into consideration the authorities on the point on which he deposes. The Court is considered as the Expert of Experts.

The matter in this case revolves around scientific knowledge as whether the poison is actually caused due to the biting of cobra or is there any other factor for the cause of death, expert opinion is necessary. Therefore, in order to bring the evidence of a witness as that of an expert it has to be shown that he has made a special study of the subject or acquired a special experience therein or in other words that he is skilled and has adequate knowledge of the subject. An expert is not a witness of fact. His evidence is really of an advisory character. The duty of an expert witness is to furnish the Judge with the necessary scientific criteria for testing the accuracy of the conclusions so as to enable the Judge to form his independent judgment by the application of these criteria to the facts proved by the evidence of the case. The scientific opinion evidence, if intelligible, convincing and tested becomes a factor and often an important factor for consideration along with the other evidence of the case. The credibility of such a witness depends on the reasons stated in support of his conclusions and the data and material furnished which form the basis of his conclusions. The report submitted by an expert does not go in evidence automatically. He is to be examined as a witness in Court and has to face cross-examination.

In order to make the opinion of expert admissible under S.45 it is necessary that section should be read with S.51 which deals with ***Grounds of opinion when relevant*** that states *Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant illustration An expert may give an account of experiments performed by him for the purpose of forming his opinion.*

As per the section it is necessary that experiment need to performed by the expert in order to make their opinion relevant so in this case the Members of the Team of Experts constituted by the Investigation Officer to study the circumstances of snake bite and the nature of fatal snake bites on Uthra (deceased) were declared competent as the dummy experiment was done, hence, the expert provided the report which corroborates their evidence and it is also admissible and relevant

- *S.57 enumerates facts of which the Court "shall" take judicial notice and states that on all matters of public history, literature, science or art the Court may resort for its aid to appropriate books or documents of reference. The list of facts mentioned in S.57 of which the Court can take judicial notice is not exhaustive and indeed the purpose of the section is to provide that the Court shall take judicial notice of certain facts rather than exhaust the category of facts of which the Court may in appropriate cases take judicial notice. Recognition of facts without formal proof is a matter of expediency and no one has ever questioned the need and wisdom of accepting the existence of matters which are unquestionably within public knowledge.*

As, the case revolves around the scientific research as to snake biting and its effect on person body so, in order to understand all this the court has taken into account textbooks of Medical Jurisprudence and Toxicology authored by Modi, in which it is stated about symptoms of snake venom and poisoning (Ophitoxaemia), that Cobra venom causes weakness of muscles and paralysis and Viper venom causes haemorrhages. The above symptoms refer to neurotoxic nature of cobra venom and haemotoxic nature of viper venom.

H.M.V Cox's text book of Medical Jurisprudence and Toxicology also, states the nature of Cobra venom is neurotoxic. Moreover, in V. V. Pillay's Text book on Modern Medical Toxicology fourth edition, (relied on by the defence counsel) at page 141 and 142 it is stated that Viper venom is haemotoxic and Cobra venom is neurotoxic. U/S 57 of Evidence Act the Court has resorted to refer to these text books to aid in coming to a conclusion and cross checking the explanation given by expert witnesses regarding these notorious question of facts regarding nature of Cobra venom and Viper venom.

Apart from direct evidence and circumstantial evidence, the prosecution relies on scientific evidence like call detail records, mobile phone tower decoding data, internet search history, and other electronic records to prove the case. The call detail records and internet protocol records are accompanied by Customer Application Forms (CAF) by the users of the mobile phone connection. All the electronic records relied by the prosecution are supported by certificates issued u/s 65 B evidence act by competent persons.

Conclusion

Evidence act in this case has played a major role in conviction of crime. It can be concluded that all these provisions helped the court provide its judgement as well as other sections such as S.8 and S.14 of the act also helped the prosecution prove their contentions due to which 27 out of 29 circumstances were proved. The accused were convicted under S. by referring to various case laws in order to justify the judgement. Hence, it can be said that the court has

done justice with this case by not letting the accused flee due to lack of evidences and has considered all the circumstantial evidences provided by conferring the various section of evidence act.