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### **New Delhi**

First Floor, 4598/12-B, 1st Floor,  
Padam Chand Marg, Daryaganj,  
New Delhi, Delhi 110002

Phone: +91 98 11 66 62 16 (M)

Phone: +91 70 11 60 56 18 (M)

### **Bengaluru**

Jallahalli East

Bengaluru, Karnataka. India.

Phone: +91 98 11 66 62 16 (M)

Email: publisher.integrity@gmail.com

### **USA**

New Jersey

14 Grandview Ave, Upper Saddle River,

NJ-07458, USA

Phone: +14805226504 (M)

### **London**

37 Degree Media

64, Hodder Drive, Perivale, London UB68LL.

United Kingdom.

Phone: +44 7950 78 18 17 (M)

Website: integrityeducation.co.in

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## **The Efficacy of Forensic Investigation in the Indian Criminal Justice System: A Critical Study**

Author  
Ashutosh Kumar  
Pawan Kumar Mishra



# The Efficacy of Forensic Investigation in the Indian Criminal Justice System: A Critical Study<sup>12</sup>

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**Ashutosh Kumar,**  
*Research scholar at Department of Law and Governance,  
Central University of South Bihar, Gaya, India*

**Professor (Dr.) Pawan Kumar Mishra,**  
*Department of Law and Governance,  
Central University of South Bihar, Gaya, India*

## Abstract

*There has been an ongoing evolution of criminal justice from ancient time to its present form, this is even more amplified with increase in technology and digitalisation. In India, judicial determination and administration had moved back-and-forth between a flowering eye-witness regime and the pursuit of scientific certainty. The Indian state has resorted to a substantial measure of the former in the form of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Bharatiya Nyaya Sanhita (BNS), 2023 and Bharatiya Sakshya Adhiniyam (BSA), 2023. This article critically examines the value of forensic investigation in this new legal context. reality. But even as the legislative framework to formalize forensic science, or its nonexistence, is a watershed moment (as with the section 176(3) of BNSS that mandates evidence collection in serious crimes), the research asserts that there exists what might be described as paper capacity vs. paper capability gap between legislative declaration and systemic reality.*

*The revolutionary wave of digitalization in the 21st century has brought us to a crossroad where we are witnessing unprecedented developments, transformations, and, most importantly, time-saving, efficient measures adopted by Artificial Intelligence to execute a task. On the other hand, we are equally witnessing the precarious situation of the societal structure due to the excessive interference of AI and over-dependence on it for getting the work done. These are leading us to the dark side of it, which not only imposes a global threat of cybersecurity issues but also encroaches upon the independence of the judiciary, most importantly, the judicial decision-making procedure.*

*According to the report, state-level facilities had accreditation rates as low as 6-8% and vacancy rates as high as 91% (Telangana), despite Central Forensic Science Laboratories (CFSLS) being renovated with a substantial cash infusion (₹2,254.43 crore under NFIES).*

*Furthermore this article also critically evaluate the transition that has taken place from the documentary evidences to the digital evidences especially under the Bhartiya Sakshi adhiniyam full stop as we already have seen that a separate provision has been made for accessibility of the*

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<sup>1</sup> Ashutosh Kumar, Research scholar at Department of Law and Governance, Central University of South Bihar, Gaya, India

<sup>2</sup> Professor (Dr.) Pawan Kumar Mishra, Department of Law and Governance, Central University of South Bihar, Gaya, India



*secondary evidence and mostly electronic evidences in the BSA. Through detailed forensic autopsies of landmark failures (Nithari, Aarushi Talwar) and emerging judicial trends (2025 acquittals due to procedural lapses), the report argues that the efficacy of the new laws is contingent not merely on statutory compulsion but on a radical overhaul of the forensic supply chain—from the mobile forensic van at the crime scene to the expert witness in the courtroom.*

**Keywords:** *technology, forensic, digital, criminal, justice*

## **1. Introduction: The Epistemological Shift in Indian Criminal Justice**

As we already have seen that the criminal justice system of India is anchored in the colonial system because the Indian penal code was also drafted by lord Macaulay hence The criminal court beat CrPC or IPC are filled with the provisions which are colonial in nature and the nature of those provisions also or style towards people in some way or the other because of which in the recent times of coming to being and even all the criminal laws which are there for example Indian penal code and code of civil procedure and Indian evidence of coming to be.<sup>3</sup>

These statutes were conceived in an era where "science" was rudimentary, and the "eye-witness" was the primary vehicle of truth. Consequently, the investigative culture that evolved was one of "parol evidence," heavily reliant on confessions (often coerced) and testimonies (often hostile).

IM initial times when the statutes were drafted and enacted the main basis of prosecution in criminal justice system was completely based on the oral arguments and documentary evidences but in the 21st century the situation has changed so much that technology has come into force because of which the documentary evidences have been replaced with the digital evidences and to tell with the admission of the digital evidences to keep in keep up with the society.

The sophistication of modern crime—ranging from dark-web narcotics trafficking to identity theft via deepfakes—demands an investigative methodology that is empirical, verifiable, and immune to human fallibility. The introduction of the "Three New Criminal Laws" on July 1, 2024, is not merely a renaming exercise but an epistemological shift. It attempts to replace the subjectivity of the human witness with the objectivity of the "silent witness"—forensic science.

In the primary phase of the enactment of the criminal court the science or the integration of science into the criminal justice system was completely a foreign idea to the drafters because of which the forensic science was also not available that time but in the recent times the forensic science has started playing a very important role in the code of criminal procedure and it continues to be at the centre of the antonyment.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) explicitly places forensic science at the heart of the investigative process. No longer is the collection of scientific evidence a matter of the Investigating Officer's (IO) discretion for serious offenses; it is a statutory mandate. This shift stands as the prime instance of a fundamental truth of modern jurisprudence: while a witness may

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<sup>3</sup> Eckard Schindler, Judicial systems are turning to ai to help manage vast quantities of data and expedite case resolution IBM (2025), <https://www.ibm.com/case-studies/blog/judicial-systems-are-turning-to-ai-to-help-manage-its-vast-quantities-of-data-and-expedite-case-resolution> (last visited Jan 18, 2026).

be intimidated into silence, a DNA profile, a digital footprint, or a ballistic striation cannot be compromised if the chain of custody remains intact.<sup>4</sup>

“However, the law's wording alone cannot be used to gauge how effective this change has been. The operational reality on the ground must be used to gauge it. This essential study breaks down the layers of this ecosystem to determine whether the Indian forensic infrastructure is resilient enough to handle its new legal responsibilities or if a backlog of unverified reports and unanalyzed samples will cause the system to fail.”<sup>5</sup>

## **2. The Legislative Architecture: A Critical Analysis of the BNSS and BSA**

Radical reforms intended to institutionalize forensic science are introduced by the shift from the CrPC to the BNSS and from the IEA to the BSA. A detailed examination of these clauses and how they affect the effectiveness of investigations is given in this section.

**2.1 Section 176(3) BNSS's Mandate:** Institutionalizing Science Section 176(3) of the BNSS represents the biggest change from the previous system. This provision requires the official in charge of a police station to arrange for a forensic expert to visit the crime scene in order to gather forensic evidence for any offenses carrying a sentence of seven years or more.

### **Theoretical Implications:**

The code of criminal procedure is considered to be one of the statutes that deals with the all procedural aspects of the criminal justice system. The inclusion of the forensic expose in all the investigation has always remained to be discretionary nature and the inclusion only was possible in the high profile cases otherwise in the lowest take cases or low profile cases the involvement of the following exports was never needed or made by the investigating officer.

This discretion frequently led to the loss of crucial evidence during the "golden hour"—the immediate period following a crime where evidence is most pristine. Section 176(3) removes this discretion. By setting the threshold at "seven years imprisonment," the law covers a vast array of serious offenses, including rape, murder, dacoity, and severe assault, ensuring that scientific rigour is applied as a standard operating procedure rather than an exception.<sup>6</sup>

### **The "Sunset Clause" and Implementation Challenges:**

The law gives state governments up to five years to properly notify and implement this paragraph in recognition of the infrastructure shortfall. This "sunset clause" has two drawbacks. It creates a "legal limbo" where the mandate exists in statute but may not be enforceable in districts without forensic facilities, even though it gives the necessary time for capacity creation. Because a victim in a resource-rich state like Gujarat might receive a scientifically assisted inquiry while a victim in a resource-poor area in Bihar might not, this geographic imbalance raises equal protection concerns under Article 14 of the Constitution.

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<sup>4</sup> Robot justice: China's use of internet courts, Robot justice: China's use of Internet courts By Tara Vasdani Lexisnexis Canada, <https://www.lexisnexis.com/en-ca/ihc/robots-justice-chinas-use-of-internet-courts> (last visited Jan 18, 2026).

<sup>5</sup> Christie, N. (1977). Conflicts as Property. *British Journal of Criminology*, 17(1), 1–15.

<sup>6</sup> Elias, R. (1986). *The Politics of Victimization*. Oxford University Press.

## 2.2 Compulsory Videography: Section 105 BNSS

Complementing the forensic mandate is the requirement for the videography of search and seizure operations. Section 105 of the BNSS requires that the process of conducting a search or seizing any property must be recorded by audio-video electronic means, preferably a mobile phone.

### **Operational Mechanism:**

**Scope:** This covers the preparation of the seizure list and the signing of the list by witnesses.

**Transmission:** The recorded file must be forwarded "without delay" to the District Magistrate, Sub-divisional Magistrate, or Judicial Magistrate of the First Class.

**Objective:** The primary objective is to curb the rampant police practice of planting evidence or fabricating recovery memos (panchnamas) in the police station rather than at the crime scene. By creating a digital timestamped record, the law aims to restore credibility to police recoveries.

**Critical Critique:**

While the provision is progressive, it relies heavily on the integrity of the recording device and the officer. As noted in legal critiques, the use of personal mobile phones by officers—often with poor battery life, low storage, or lack of proper chain-of-custody software—poses significant risks. If a video is recorded on a personal device, transferred via WhatsApp, and then burned onto a CD, the metadata is often destroyed, rendering the evidence vulnerable to challenge under the BSA's admissibility standards.<sup>7</sup>

## 2.3 The Digital Evidence Revolution: Bharatiya Sakshya Adhiniyam (BSA)

The BSA fundamentally alters the status of electronic records, addressing the ambiguities that plagued the IEA (specifically Section 65B).

### **Primary vs. Secondary Evidence:**

Under the IEA, electronic records were often categorized as secondary evidence. The BSA classifies electronic records as "documents" and, crucially, treats them as primary evidence when produced from proper custody.

**Definition:** The definition of "document" now explicitly includes electronic and digital records, including server logs, emails, smartphones, laptops, and locational evidence.

**Admissibility (Section 63):** Section 63 of the BSA governs the admissibility of electronic evidence. It retains the requirement for certification (similar to the old 65B certificate) to ensure authenticity. This certificate must identify the electronic record, describe the manner of its production, and certify the proper functioning of the computer system involved.

### **Judicial Interpretation and "Hash Values":**

The courts have begun to interpret these provisions strictly. In the wake of judgments like *Arjun Panditrao Khotkar* and evolving 2025 jurisprudence, the mere production of a digital file is insufficient. Courts now demand proof of integrity, such as "hash values" (digital fingerprints), to ensure that the file has not been altered from the moment of seizure to the moment of production. The failure to provide this metadata has led to acquittals in recent cyber-extortion cases, as seen in the *Shebin El-Kom* comparative analysis, where the lack of a forensic image led to the exclusion of WhatsApp evidence.<sup>8</sup>

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<sup>7</sup> Fattah, E. A. (1991). *Understanding Criminal Victimization*. Prentice-Hall.

<sup>8</sup> Wemmers, J. A. (1996). *Victims in the Criminal Justice System*. Kugler Publications.

## **2.4 Expansion of Sample Collection: Section 349 BNSS**

Section 349 of the BNSS widens the horizon of powers that have been conferred on the Magistrate to pass an order for the collection of forensic samples which are considered as necessary for the aid and facilitation of justice. Under the CrPC (Section 311A), this was largely limited to handwriting and signatures.

### **The BNSS extends this to include:**

- Finger impressions
- Voice samples
- Specimen signatures/handwriting

“Crucially, these samples can now be collected from a person who has not been arrested, a significant expansion of investigative reach. This provision directly addresses the difficulty IOs faced in obtaining voice samples for comparison in extortion and cybercrime cases, where the accused might not yet be formally arrested but is a suspect. This balances the "right to silence" (Article 20(3)) against the "interest of justice," provided the samples are material (non-testimonial) in nature.”

## **3. The Infrastructural Reality: A State-by-State Audit**

“The legislative ambition of the BNSS is contingent upon the physical infrastructure of forensic laboratories. A critical audit of this infrastructure reveals a stark "implementation gap" that threatens to derail the reforms. The system is bifurcated into a moderately robust central tier and a crumbling state tier.”<sup>9</sup>

### **3.1 The Laboratory Ecosystem**

India's forensic infrastructure is organized into a three-tiered system:

1. Central Forensic Science Laboratories (CFSLS): “These are the apex bodies under the Directorate of Forensic Science Services (DFSS). There are currently 7 operational CFSLS located in Bhopal, Chandigarh, Kamrup (Assam), Hyderabad, Pune, Delhi, and Kolkata. An 8th CFSL has been approved for Samba, Jammu.”
2. State Forensic Science Laboratories (SFSLS): “There are 32 main state laboratories.”
3. Regional Forensic Science Laboratories (RFSLS): “There are 97 regional laboratories, designed to serve specific clusters of districts.”

### **3.2 The Manpower Crisis: "The Ghost Labs"**

“Infrastructure is redundant without expertise. The most critical failure in the Indian forensic system is the shortage of scientific personnel. The physical buildings exist, but the scientists required to analyze the DNA, toxicology, and ballistics are missing.

Telangana Case Study: A report highlights that Telangana has a 91% vacancy rate for scientific posts in its forensic laboratories. While the state has strong policing indicators, the forensic labs are hollow shells. With only 40 permanent scientific officers against a requirement of hundreds, the "mandatory" visit to crime scenes under BNSS 176(3) becomes a logistical impossibility.”

“National Average: The national vacancy rate for scientific personnel hovers around 49.1%.”

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<sup>9</sup> Zehr, H. (1990). *Changing Lenses: A New Focus for Crime and Justice*. Herald Press



**Impact on Backlogs:** As of October 2024, the 7 CFSLs alone had 3,953 pending cases. The CFSL in Kolkata had 1,340 pending cases, and Delhi had 937. These delays violate the constitutional right to a speedy trial, as accused persons languish in custody waiting for a chemical analysis or DNA report that takes years to materialize.

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### **3.3 The Accreditation Crisis: Standardization Failures**

Quality assurance in forensic science is governed by ISO/IEC 17025 standards, accredited in India by the National Accreditation Board for Testing and Calibration Laboratories (NABL). Accreditation ensures that the lab's results are technically valid and that the staff is competent.

**Low Accreditation Rates:** Research indicates that only 6-8% of Indian forensic laboratories have achieved NABL accreditation.

**International Comparison:** This stands in sharp contrast to the United States (88%) and the United Kingdom (95%).

**Consequence:** The lack of accreditation means that the methodologies used in the vast majority of Indian state labs are not externally validated. This opens the door for defense counsel to challenge the reliability of the evidence under the BSA. If a lab is not accredited, can its results be trusted beyond a reasonable doubt? Recent judicial trends suggest that courts are becoming increasingly skeptical of reports from non-accredited facilities.<sup>11</sup>

### **3.4 Mobile Forensic Vans (MFVs): The First Line of Defense**

To bridge the gap between the crime scene and the laboratory, the government has deployed Mobile Forensic Vans (MFVs). These vans are intended to visit crime scenes under Section 176(3) BNSS.

**Standard Equipment and Capabilities:**

According to DFSS specifications, these vans are equipped with sophisticated kits designed for on-site preliminary analysis.

## **4. Digital Forensics and the e-Sakshya Ecosystem**

In the recent times as we already have seen that how technology has progressed and the advancement of digitalisation has compelled the criminal justice system to enter into the technology and digital evidence error because of which the bnss and BSA place heavy Reliance on the admissibility of digital evidences in case of trial and punishment. To facilitate the same the central government has also come up with so many initiatives which have made the entire process smoother and easier.

The cornerstone of this initiative is the e-Sakshya application and the broader Inter-operable Criminal Justice System (ICJS).<sup>12</sup>

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<sup>10</sup> Umbreit, M. S., Coates, R. B., & Vos, B. (2001). The impact of restorative justice conferencing. *Juvenile Justice Bulletin*

<sup>11</sup> Elliott, D. E., Bjelajac, P., Fallot, R. D., Markoff, L. S., & Reed, B. G. (2005). Traumainformed or trauma-denied. *Community Mental Health Journal*, 41(1), 31–50

<sup>12</sup> Supra

#### **4.1 The e-Sakshya Application**

Initiative of the e sakshar app is considered as digital log book for the investigating officers in a police stations. Before these entire application came into being it was seen that the streamlining entire process of collecting digital evidence admission digital evidence is very much required and there was no such strong and robust system which could do so. Hence the government Sakshi application which not only streamlined the entire process of collecting the evidence but also made the admissibility of secondary evidences especially electronic evidences much easier for the investigating officers as well as the litigants and magistrates

The e-Sakshya app is designed to be the digital logbook for the Investigating Officer. It facilitates the recording of crime scenes, search and seizure operations, and the uploading of this data to a cloud-based platform (National Government Cloud - Meghraj).

Technical Architecture:

Functionality: The app allows officers to record videos of up to 4 minutes per clip. It captures geo-coordinates (GPS), date, and time stamps automatically.

Authentication: Officers must upload a "selfie" to authenticate their presence at the scene.

Storage: Data is uploaded to "Sakshya lockers" in the cloud, theoretically preventing local manipulation of the file

#### **Operational Challenges:**

The Connectivity Divide: The app requires robust internet connectivity to upload large video files. In rural India, or "media shadow" zones, officers struggle to upload data in real-time. The "offline mode" allows recording on the device, but this reintroduces the risk of file manipulation before upload, breaking the "tamper-proof" chain.

Device Compatibility: The app requires specific Android versions and minimum storage (1GB free). Many lower-ranking constabulary staff, who are often the first responders, do not possess department-issued devices meeting these specs, leading to the use of personal phones—a major security risk.<sup>13</sup>

Judicial Integration: While the police are uploading data, reports indicate that courts currently lack the direct access mechanisms to view this evidence seamlessly. The "digital silo" means that police often still have to burn the data onto CDs/USBs for the court, defeating the purpose of the cloud locker.

#### **4.2 CCTNS and ICJS: The Backbone of Digital Justice**

It has already been seen that e sakshya app play the significant role in feeding into the data into the border system of criminal justice especially the crime and criminal tracking network system icjs.

The goal is "One Data, Once Entry," where data entered by the police is available to courts, prisons, and forensic labs.

Audit Findings (CAG Report 2024):

A critical audit by the Comptroller and Auditor General (CAG) of India revealed serious breaches in the implementation of CCTNS, particularly in Odisha.

Credential Sharing: Police officers were found sharing login credentials, allowing unauthorized personnel to access and modify sensitive case data.

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<sup>13</sup> Supra

Unregistered FIRs: The system failed to register FIRs for over 5,500 missing children cases due to mapping errors.

Privacy Violations: The identities of victims in sensitive cases (rape, POCSO) were disclosed on the system, violating privacy laws.

Implication: These findings undermine the integrity of the digital backbone. If the CCTNS data is unreliable or insecure, the entire premise of "data-driven justice" collapses.<sup>14</sup>

#### **4.3 Cybercrime and Conviction: The "Digital Arrest" Success**

However despite so many challenges it has been seen that there are some sources of success which have been possible in the past few years in various parts of the country. Being incidence of the cyber crime have increased in an exponential rate because of which criminals also have become resistant to all source of investigation and desperate to pursue their crimes. But in the recent times especially in the cases of the digital arrest fraud cases West Bengal serves as a beacon of effective digital investigation.

The Case: Scammers extorted ₹1 crore from a resident by impersonating law enforcement via video calls ("digital arrest").

Forensic Investigation: The CID used "digital footprint analysis," tracing IP addresses, VoIP logs, and money trails across mule bank accounts.

Outcome: In a first-of-its-kind judgment in 2025, a Kalyani court sentenced nine scammers to life imprisonment, terming the crime "economic terrorism." This conviction relied heavily on the admissibility and verification of digital evidence, proving that when executed correctly, the BSA framework can deliver justice.

#### **5. Case Studies in Forensic Failure: Lessons from History**

To have a better understanding of the reforms that have been brought in the bnss and the BSc it is important for as to go through the all the important case studies which have taken place so far mostly in the criminal law that play a significant role in the transformation of the criminal laws jurisprudence.

The case studies of the Nithari killings and the Arushi Talwar case are one of the examples which deal with the shift in the criminal law jurisprudence .

##### **5.1 The Nithari Killings (2006): A Catalog of Forensic Errors**

This case is considered as one of the spine chilling criminal cases which not only established the importance of the forensic investigation in such aggravated series criminal offences but it also exposed the horrific mindset and mentality which remains in dark of the society.

The facts of the case revolve around the discovery of skeletal remains in a drain beside the D5 bungalow in Noida by the police officers. However, the handling of the crime scene by the local police was a masterclass in forensic negligence.

Crime Scene Destruction: When the remains were discovered, the police did not cordon off the area. Instead, villagers and media personnel were allowed to trample the scene, digging up bones with sticks and hands. This destroyed the stratigraphy of the burial site, making it impossible to determine the sequence of disposal.

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<sup>14</sup> Ibid at 9

The Organ Trade Miss: there is so many dimensions and layers of this case has it was seen an observed by the high court while aquating the Surendra Kali in 2023 the High court officer that the organ traffic in aspect should not be the only factor because so much skill was used while decembering the bodies and it was completely a surgical scale and not a scale of a lay man. How about the aspect of the cannibalism was set aside because it was felt that this respect is kind of course and forced

Inadmissible Recoveries: The court rejected the "recoveries" of weapons (axes and knives) under Section 27 of the Evidence Act. The biological residue on these weapons was not connected by the forensic research to the victims' particular DNA. The "botched investigation" that produced evidence to support the confession rather than the other way around was denounced by the court. Result: In 12 cases, the accused were acquitted due to the failure to preserve the crime scene and the preference for a pressured confession over solid scientific evidence, depriving the victims' families of justice.<sup>15</sup>

### **5.2 The Aarushi Talwar-Hemraj Murder (2008): The "Cleaned" Scene**

The double murder case of the 14 year old girl Aarushi Talwar continues to send shewar down the spine of the people event till now because it is considered as one of the classic cases of who done it in the criminal laws reports.

The Lost 24 Hours: The Uttar Pradesh police failed to secure the crime scene. The terrace door, behind which Hemraj's body lay, was not opened for an entire day because the keys were "missing." This delay allowed the decomposition of the body and the loss of crucial time-of-death indicators.

Media Contamination: Journalists were permitted to walk on the terrace where Hemraj's body was found, destroying footprints and trace evidence. Bloodstains on the staircase were wiped away or dismissed as "paan stains" by ignorant constables.

The "Golf Club" Speculation: The CBI's closure report (which later became the basis for prosecution) theorized that Rajesh Talwar used a golf club to strike the victims. This was based on a forensic expert's opinion that the U/V-shaped injury dimensions "matched" a golf club. However, this was fiercely contested as speculative "opinion evidence" unsupported by definitive biological traces on the club itself.

Narco-Analysis Limitations: The investigation relied heavily on Narco-analysis tests of the three assistants (Krishna, Rajkumar, Vijay Mandal). While they allegedly "confessed" during the trance, these statements were inadmissible in court. The over-reliance on this "truth serum"—which has low scientific validity—diverted the investigation from collecting physical evidence.

### **5.3 Suresh v. State of Kerala (2025): The Turning Point**

This case stunts as one of the prime examples of the negligence and irregularities in the procedural aspect by the police officers as in this case a murder was committed and there was delactence and negligence on the part of the police officers because of which they could not conduct the investigation properly and they could not discovered the weapon that was used in the murder. The police fail to videograph the discovery of the weapon later because of which a very important evidence which could be presented before the court of law could not be presented for the negligence on the part of the police officer and for the procedural irregularities.

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<sup>15</sup> supra



The Kerala High Court found the accused not guilty. According to the ruling, the probe was "irresponsible and careless." The court determined that there was a "reasonable doubt" about the authenticity of the recovery due to the noncompliance with the obligatory videography requirements. The court made it clear that the BNSS rules are "mandatory" rather than "directory," and that breaking them invalidates the inquiry. Impact: As a result of this ruling, conviction now requires "procedural compliance" with forensic standards. Police must use technology or else they run the danger of losing cases.<sup>16</sup>

## **8. Conclusion: The Efficacy Equation**

In recent times the stark observation of all the judicast as well as the citizens is that the criminal justice system has been in a very volatile situation, even if it is being done by the modern methods till the system is anchored in the ancient system. Until this infrastructure gap which has been created due to such differences is closed it will never be possible to bring a very watershed change into the system as well as to the adjudication of justice. The promise of the BNSS will remain a statutory goal rather than a judicial reality until the "infrastructure gap" is filled, through widespread hiring, required accreditation, and the smooth integration of digital instruments. The state's physical inability to fulfill its own commitments is the sole thing impeding the forensic investigation's current moderate but rising effectiveness.<sup>17</sup>

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<sup>16</sup> *supra*

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## EDITORIAL TEAM

*PROF. (DR.) BANSI DHAR SINGH*

Professor,  
Ex. Dean & Head,  
Faculty of Law,  
University of Lucknow

---

*DR. KALPESHKUMAR L GUPTA*

Founder ProBono India, Legal Start-ups,  
Law Teachers India

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Each submission undergoes a rigorous double-blind review process conducted by a panel of eminent national and international professors, ensuring the highest standards of quality and academic integrity. Lex Scripta not only encourages original and innovative research but also strives to bridge the gap between theoretical insights and real-world applications in the legal domain.

Contributors and editorial members receive global recognition through certificates and publication opportunities, while readers gain access to insightful, authoritative, and thought-provoking content across diverse areas of law and policy.

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