

## **IDENTIFICATION OF FINGER PRINTS & LAW**

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The science of Finger Print identification -has reached a stage of perfection and thus assumes a significant role in the day to day Administration of JUSTICE.

Rai Bahadur Shri H.C.Bose of Calcutta has mentioned in his book: Finger Print Companion that:-

"Finger Prints are SELF-SIGNATURES subject to no fault of observation or clerical error and persistent throughout Life"

Finger Prints serve to reveal an individual's True-Identity despite personal denial, assumed names, changes in personal appearance resulting from age, disease or accidents. Thus the question of Identification figures a good deal in both Criminal and Civil cases.

Identity of persons, living or dead, Known or Un-known, of things, or handwriting or finger Prints or Foot Prints play part in establishing the Guilt or Innocence of the accused or In proof or dis-proof of the case of the parties in civil matters.

Because of its simplicity and economy the practice of utilizing Finger Prints as means of identification referred to as DACTYLOSCOPY - has become established and indispensable to the Modern Law Enforcement.

DACTYLOSCOPY - is based on the principles:

1. There are no two Identical Finger Prints and
  2. Finger Prints are not-changeable
- thus-- Individuality and Persistency.

In Jalaludin v. Emperor (13 Cr.L.J.563) their Lordships said:-

"It is reasonable deduction from experience that NO TWO HUMAN BEINGS have the same thumb markings..... "

Marshall Honts In his treatise entitled "From Evidence To Proof" has discussed in detail regarding Finger Prints, their Examination and their Processing.

According to him:

"Finger Prints-utopian goal of most investigation are Convincing proof of a man's Individuality....."

So conclusive is the Finger Print evidence that it actually shifts the Burden of Proof in Criminal cases. The practical effect is to force the defendant to explain "HOW HIS FINGER PRINT GOT TO THE CRITICAL AREA."

Regarding Identification-there is both the evidence of fact of Identification, which is a matter of Observance and also the Expert Evidence.

The Expert Evidence deals not with the fact of Observance, but instead certain devices are utilized that go to help in this process of identification. On, the basis of those devices the Expert gives his OPINION.

The matter is not so easy as that of an Observance of a Fact, because it is a question of competency both of the witness as of the methods employed.

The Finger Print Expert has to convince the Court that by the methods employed, he did reach at the right conclusion.

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The ultimate aim of the Court is to impart Justice and doing so it incorporates the Opinion of the Finger Print Experts, under Section-45 of the Indian Evidence Act.

Section-45 of the Indian Evidence Act, permits a person who possesses J special qualifications in regard to a particular Science or depose as an experts, witness in cases of such nature i.e. Finger Prints.

The Section does riot particularly mention regarding the skill of such persons, nor does it lay down any special qualifications for a person to entitle him to call himself as an Expert.

In United States Shipping Board v. The Ship 'St Albans' (AIR 1931, Privy Council 189), their Lordships observed:-

"The witness must have made a special study or acquired a special experience therein. That is he must be skilled and have adequate knowledge of the subject".

It was held in Chitaman Dissil v. M.Lakshman (ILR Bom 101) that:-

"The mere opportunity to see Finger Prints does not make one an Expert. It is scientific study and outlook on the problem that is required for an Expert. As such a Sub-Registrar is not an Expert on Finger Prints..."

The competency or qualifications of a person who describes himself to be an Expert is left entirely to the discretion of the Court/Judge.

The real worth of the Expert will be judged by his keen observations and correct interpretation of the Finger Print Patterns and the Ridge Characteristics. The acceptability of his opinion will be solely dependant on his reasoning and the demonstration of those reasons in Court.

For the purposes of examination and comparision the Finger Print Expert is required to prepare or get prepared enlarged photographs of the disputed and the specimen thumb impressions to the same scale. The best enlargements for the purpose of examination are TWO, THREE or FOUR diameters, so that ridges of the impression may not loose definition or sharpness. The identical points should be marked on the enlarged photographs.

The Core and Delta should be located first. If they are clear, one or both should be taken as a starting point for comparison. If the Core and Delta are not clear then ANY RIDGE Characteristic can be taken as a starting point. The ridge characteristics *should* be marked on the enlarged photographs.

The intervening ridges in between the ridge characteristics marked, should be counted carefully and mentioned in the report so that the similarity in their relative Position can be established.

The task of the Court becomes much easier when the Finger Print expert has made enlarged Photo-Prints of the disputed and the sample thumb impressions and marked distinct points of similarities in the corresponding clear portion of the impressions.

Regarding the Method of Comparison, Mr. S.C.Chatterjee. has written on page 124 of his book: 'Finger, Palm and Sole Prints', as under:- .

"The first attempt at comparing two finger prints would be directed to a rough examination of their respective Patterns.

If they do not agree in being Arches, Loops and Whorls, there can be no doubt that the prints are those of different fingers. Nor can there be any doubt when they are distinct forms of the same general class.

But to agree thus far goes only a short way towards establishing identity, for the number of patterns that are promptly distinguishable from one another is not large.

The next step is to examine the numerous ridge characteristics. Some prominent Points of reference in their relative Position should be identified and marked. The coincidence of ridge characteristics in their *relative* Position is a SURE AND CONCLUSIVE EVIDENCE OF IDENTITY."

If a sufficient number of ridge characteristics are in complete agreement in the two thumb impressions it can be said definitely that impressions were made by the same person.

In State of M.P. v. Sitaram Gajraj Singh (Raipur MPLJ 197 (201): Cr.L.J. 1220 (1223) it was laid down:-

"So no hard and fast rule can be laid down. Each case has to be seen on ~; Its own merits and cases of well grouped characteristics in a narrow area and patterns uncommon, SIX points or EVEN LESS may be sufficient to fix the identity.

In Mohan Lal v. Ajit Singh, AIR 1978 S.C. 1183, it was held as follows:-

"Similarly it is for a competent technician to examine and give his opinion whether the identity can be established and if so whether this can be done on eight or even less identical characteristics in an appropriate case."

Here it is worth mentioning that it is not essential that in a disputed or sample thumb impression Delta/Core or any particular area must be present to determine or establish identity. Although Delta/Core are no doubt essential fixed/focal points (except in the case of Arch Type of Pattern) of an impression yet their absence does not at all prevent an Expert from establishing absolute identity between two prints which are otherwise legible in a sufficient number of matching ridge characteristic details.

Any person who attacks the Finger Print Expert's testimony on the ground that the questioned or the sample print does not show the Delta or Core or the portion enclosing the type of Pattern is grossly mistaken or misguided. By doing so, he rather displays his utter ignorance of the basic tenets of the method of Finger Print Identification.

To-day personal identification by means of a Finger or Thumb impressions is not only a SCIENCE in itself but is an EXACT SCIENCE.

In *Jaspal Singh v. State of Punjab*, (AIR 1979 SC 1708. 1979 Cr.L.J. 1386) their Lordships said:-

"The science of identifying thumb impressions is an EXACT SCIENCE and does not admit of any mistake."

In *re Govinda Reddy*, (AIR) 1958 Mys. 177, Cr.L.J. 1489) it was held:-

"The science of comparison of finger prints has developed to a stage of EXACTITUDE. It is quite possible to compare the impressions, provided they are sufficiently clear and enlarged photography is available. The identification of finger impressions with the aid of a good magnifying glass is not difficult, particularly when the photographs of the latent and patent impressions are pasted side by side."

As observed above the science of identification of finger or thumb impressions is an EXACT SCIENCE and an accused can be convicted on the evidence of a Finger Print Expert alone.

In *Chauthl v. State* (1978 Cr.L.J. (NOC) 122 All.), it was held:-

"In a case of forgery in which the accused denied having put his thumb impressions, the accused was convicted on the evidence of the expert who gave his opinion that the thumb impression was that of the accused after comparing the finger prints of the complainant and the accused."

As already mentioned earlier, finally it is the JUDGE/COURT who has to examine and decide the correctness of the conclusions of an Expert.

In *Bhaluka Behara and others v. State* (AIR 1957 Orissa 172), their Lordships said:-

"If the finger prints are clear enough the Court must verify the evidence of the expert by examining them with a magnifying glass if necessary, and applying its own mind to the similarities or dissimilarities afforded by the finger prints, before coming to a conclusion one way or the other. The science has developed to a stage of exactitude. But the main thing to be scrutinised is whether the Expert's examination is THROUGH, COMPLETE and SCIENTIFIC."

Sometimes it is observed that Experts are produced by both the parties in support of their versions.

The main object in such instances is to nullify the weight of the Expert Evidence produced by one party. In such cases Evidence of the Expert is at times discarded and the case is decided on the other evidences by the court. In a way it is an injustice to the Expert who has given a correct opinion.

If the presiding officers paid a little attention and observed the facts themselves, the correctness of the opinion of one of the Experts could be judged very easily. Such a view was held by the Hon'ble High Court of Madras (AIR 1923 Mad 178), where the Court observed that: -

"When the Experts appear on both sides, the Court can not leave the matter merely by saying that it was difficult to prefer one of the report. The Court should have examined the characteristics with the magnifying glasses."

The identification of Finger Prints Is a SCIENTIFIC problem and to solve, it the Expert must proceed in a SCIENTIFIC MANNER, with a complete freedom from pro-defence or pro-prosecution.

The approach of an Expert should be IMPERSONAL, DETACHED and OBJECTIVE and aim at testifying HONESTLY to the facts which may come to his knowledge, irrespective of temptations which may be offered.

Comparing two thumb impressions is just like READING NATURES INDELIBLE WRITING.

The Expert should invariably realise that in the finger print cases, the decision of the case may depend only upon his opinion, and evidence.

It is therefore desirable that an Expert's opinion should be self-explanatory and the evidence should be presented in a clear and convincing manner.

He should live up to the Finger print Expert Method of Identification which is -

FOOL PROOF,

IMMUTABLE and *POSITIVE*.

It has undoubtedly become a TRUISM that-

FINGER PRINTS NEVER LIE.

To quote A. Merrium Conner....

*"Now you may love and run away-*

Beware, you have a THUMB,

Before Its *TESTIMONY* you

Will stand confused and dumb;

You may commit the perfect crime

And prove an alibi,

But those strang lines upon your thumb

straight away your words belie.

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