

## Chapter VI

### INVESTIGATION OF SOME SPECIAL OFFENCES

There are innumerable kinds of offences that are covered under the Indian Penal Code and Special and Local Laws to curb the menace of crimes effectively by punishing the perpetrators in the appropriate courts of law. Prosecution of offenders can be done very effectively and efficiently only when the crimes are investigated on professional fashion and footing. Just to have a panoramic view and understanding of how the crimes are generally investigated on professional line, a few offences of different manifestations are selected and explained herein below.

#### I. Investigation of House Breaking Theft by Night Burglary

The offence of house breaking theft by night- burglary has been defined under sections 456, 457 and 458 of the Indian Penal Code. Since the property offence does not leave any identity of the perpetrator, the investigation has to be commenced in the absence of a named suspect. The only lead for investigation will be the stolen property.

In the investigation of an offence of burglary, investigating police may have to attempt to identify the perpetrator from the *modus operandi* files of the criminals or basic clues from interview reports documented at police station and Crime Records Bureau at the district level and tips of information gathered from underworld sources. The value of physical evidence found and collected at the scene of crime against property has gained importance in the recent past. This will, some times, help the investigating police to name a suspect of the crime.

In an offence of burglary, the motive for the offence is to take away money and other valuable property in a planned way. In investigation of such an offence, the investigating police must probe the points of the breaking and entry of the premises and develop evidence about the crime and the movements of the perpetrator and his accomplices. The investigating police should bestow lot of interest at the scene of crime in search of the following information:

1. How the perpetrator gained access to the premises;
2. The exact location of the perpetrator's point of entry into the premises;
3. The tools used to gain access to the premises;
4. The safeguards used against detection and surprise (some burglars use lookouts; others draw the shades or blinds or extinguish night light; and a few put on the lights in an establishment and assume the role of employees;
5. The place from which the stolen property was taken, if a safe or other locked container is involved, the method and place of entry and tools used to gain access;
6. Method of exit and means used to transport the property stolen;
7. A full description of vehicles involved, the vehicle used by the perpetrator, or a lookout, or the one used to transport the stolen goods;
8. Communications used by the perpetrator and his accomplices. Radio communications, telephone calls, indented writing found on paper pads in thefts committed premises and adjacent to telephones;
9. Any trademark or words spoken in the course of the crime, any unusual or peculiar act and exact words used to gain entrance or to effect escape with the stolen property;
10. The objective of the attack, usually the stolen property; and
11. Physical evidence which will link a suspect with the crime-tool marks, clothing fibers caught on projections, fingerprints, foot and impressions, blood, dust, and other traces of evidence.<sup>1</sup>

The investigating police with the help of the victim or witnesses, should list quantity, kind of material, physical description, serial numbers, and values of the stolen property. The characteristics of the property stolen would be the *modus operandi* of a criminal and will help to name a suspect and how the properties are stolen, disposed of and to whom, like habitual receivers of the stolen property.

*Modus operandi* searches are rewarding in burglary and theft investigations. Burglars are known to develop into single-pattern offenders, beginning with crimes against property generally and progressing to burglary as a criminal specialty. Among burglars there is a specialization in the type of premises attacked, the property stolen, and the skills displayed.<sup>2</sup>

Dr. Hans Gross, in his monumental work '*Criminal Investigation*' has laid down several note worthy guidelines to the investigating police for investigation of house-breaking thefts, including burglary. They are:

1. To know the topography of the place of offence;
2. To know methods and techniques adopted by a criminal at the place of offence. To know the connections between the victim(s), their family members with outside; the ways of the victims both in public and private life;
3. Not to delegate the investigation work to the subordinates;
4. To make all necessary investigations to collect proof against suspect to arrest;
5. To thoroughly interrogate the victims and other inmates of the premises;
6. To question the witnesses irrespective of age, sex, status;
7. To elicit information as to any band of persons like one child, one man and two women were seen before or after at the premises burgled;
8. The police should not lose sight of the fact that the suspicious behaviour of a man more particularly of a woman may have some connection with an act of guilt being committed;

9. The watchman of the premises or area should also be questioned without fail; and
10. To look out for confederates of the thief in near lodgings, hotels dormitories <sup>3</sup>

Apart from these, the investigating police should also know special circumstances, if any, concerning the time and date of burglary; nature of locality; clues left by the burglar at the scene; mode of entry into the premises, whether by making a hole or lock opening or breaking, besides a sketch of the premises also has to be made.

Scientific methods and aids of investigation such as sniffer-dogs, fingerprint expert, forensic experts, video and photography should also be made use of by the investigating police. Search and seizure with effective mahazar of any clinching clues and compromising articles to the crime has to be promptly carried out.

## **II. Investigation of Murder**

In legal parlance, the offence of murder is described as the killing of any human being by another with malicious pre-thought punishable under law. Section 300 of the Indian Penal Code has defined the offence '**Murder**' as:- the act by which death is caused, is done with the intention of causing death; or if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or if it so done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or if the person committing the act knows that it is so imminently dangerous that it must, in all probability cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Section 302 provides punishment for murder wherein murderer will be punished with death or imprisonment for life and shall also be liable for fine.

Motives for murder have legal implications. Motives for murder may be spontaneous, profit, felony, jealousy, sex, revenge, elimination, or political interests.<sup>4</sup> The investigating officer must start the investigation in a specific direction by identifying the motive of the crime.

However, the line of investigation of these categories of murder is more or less same, with a little deviation here and there. Generally, the methods of investigation of murder cases where the death of a person is caused by using weapons and firearms are as follows:

1. Visit to the scene of crime;
2. Identification of the dead person;
3. Inquest and post-mortem of the dead body;
4. Evidence from wounds;
5. Search and seizure;
6. Examination of witness;
7. Apprehension and arrest of the accused; and
8. Filing the charge sheet.

### **1. Visit to the Scene of Crime**

Visit to the scene of crime forms an important phase of investigation of an offence of murder. The investigating officer should visit to the scene of crime with his team of crime staff and I.O. kit box. He should be calm and composed to take right decisions at the scene of crime. As soon as he approaches the scene he should be observant for a suspect or a perpetrator fleeing either on foot or by vehicle. He should contemplate a plan of action as to who could have committed crime. He should think as to why and how it could have been committed. He should keep several options open to trace the perpetrator.

The investigating officer should cordon off the scene of crime to ensure that no the physical clues and other evidence is damaged and destroyed. FSL

experts, Sniffer-dog squad, fingerprints experts, photographer, videographer, as the case may be, should be summoned to the spot and their services should be made use of. The crime scene is to be photographed and videographed. The investigating officer should also get graphic sketch of the scene of crime drawn by a skilled draftsman.<sup>5</sup>

The investigating officer has to ascertain the death of victim and his identity and then hold inquest on the dead body before panch witnesses under a panchanama. He should note down all the details in a prescribed pro-forma.

## **2. Postmortem of the Dead Body-Autopsy**

The investigating officer, after holding inquest on the dead body, should transport it to mortuary under the police escort with duly filled pro-forma to the medical officer, who would conduct post-mortem on the dead body. He should request the medical officer to answer the following questions.<sup>6</sup>

1. What type of weapon was used?
2. Amongst multiple wounds inflicted, which wound was fatal?
3. How long did the victim live after the injury?
4. What was the position of the victim at the time of assault?
5. From what direction was the fork applied?
6. Is there any evidence of a struggle or self defense?
7. Is there any evidence of rape or other sex related acts?
8. Was the deceased under the influence of alcohol or any type of drug?
9. Time since death?

## **3. Identification of the Dead Body**

Establishment of the victim's identity is very vital for investigation. The investigating officer should get the identity of the deceased victim established by relatives and friends, fingerprinting, physical description, surgical history, occupational trademarks, and personal belongings.<sup>7</sup> In case of unidentified body, he should obtain fingerprints if the hands are in such a condition as to

yield diagnostic prints. So also he should take the photographs of the deceased victims and should preserve the body for three days after autopsy to trace and handover the dead body to the relatives or friends. He should also keep a reference of bodily features of the deceased victim for identification.

The investigating officer should request the medical officer who would conduct postmortem on the dead body to take the photographs of the dead body before the clothes on the dead body are removed and also during post-mortem. He should ask for blood sample, viscera and clothes on the dead body in well packed form for FSL examination. The same should be sent up intact for the opinion of FSL expert without any delay.

#### **4. Evidence from Wounds**

The investigating officer should have basic knowledge of nature of wounds found on the dead body to arrive at tentative conclusions. He should generally be aware of the five most common types of wounds in death investigation- gunshot wounds, incised wounds, stab wounds, puncture wounds and lacerations.

##### **Firearm Wounds**

In gunshot wounds the investigating officer should know the caliber of firearm, the distance between the victim and the firearm, and whether or not the bullet first ricocheted off some object before striking the victim and entry or exit wound. He should know that wound is ordinarily smaller in diameter than the projectile causing the wound. The wound will frequently have an even gray ring round it with burnt flesh around it and it is called tattooing. The close and careful examination of these markings around the wound may indicate the distance from which the firearm was discharged. The presence or absence of powder burns is also vital for investigation in suicide or homicide cases.

The investigating officer should also know the nature of the contact entry wound which is typically much larger than the non-contact entry wound

which results when the firearm is held against the body at the time of discharge. It is common in both suicides and murders.

The investigating officer should know the nature of gunshot exit wounds as they have special characteristic features. They are frequently larger than entry wounds, bleed freely, irregular in shape and occur most commonly when the ammunition used is of a high-velocity, metal-jacket type, or when the projectile strikes a limb or causes a glancing blow. The investigating officer should be aware of shotgun wounds as they help him to know the gauge, shot type and distance from which the weapon was fired.

The investigating officer should know how useful is gunshot residue in determining whether or not a particular individual recently discharged a firearm. He should also know about Neutron Activation Test (NAA) as it is a good and effective test for tracing of gunshot residues.<sup>8</sup> He should also have knowledge of removing a gunshot residue by washing with soap and water.

### **Weapon Wounds**

The investigating officer should have a basic knowledge of nature of wounds caused with weapons such as knife, razor, dagger etc. He should know that the incised wound is commonly known as cutting wound inflicted with a sharp-edged instrument such as a knife or razor. It is very narrow at the edges and gaping at the centre and causes considerable bleeding. He can easily determine the actions of the victim prior to death, if the wounds are concentrated within a small region of the body which would suggest the investigating officer that the victim was immobilized at the time of assault e.g. held down, asleep or intoxicated.

The investigating officer should also know what puncture wounds are and how they are inflicted. These wounds are usually caused with leather punches and screwdrivers. They are normally small in size with little bleeding. So also he should know the nature of lacerated wounds and weapons with

which such wounds could be caused. Generally, the lacerated wounds are caused by use of clubs, pipes or such other blunt objects. They bleed freely accompanying bruises around the wound.

Further the investigating officer should equip himself of the knowledge of defense wounds. They are the wounds suffered by the victim in attempting to protect himself in an assault. These wounds are commonly found on the palms of the hands, fingers or forearms.<sup>9</sup>

## **5. Search and Seizure at the Scene of Crime**

Search and seizure is an important phase of investigation of murder. The investigating officer should effect search and seizure within the frame work of section 100, 165 CrPC. He should take necessary care and caution while searching for physical clues at the scene. Any 'chance' or 'latent' fingerprints, impression marks, blood and blood stained weapons and clothes or any other article left by the suspect at the scene of murder should be properly lifted or collected, packed and sealed under a panchanama with the signature of the investigating officer and panch witnesses.<sup>10</sup> A sample of seal should be left with one of the panchas. He should not forget to collect samples of blood and blood stains, controlled soil of the spot. Collected samples should be properly packed, sealed and sent up promptly for Forensic examination. A letter containing list of questions to be sent along with the sealed articles to Forensic Science Laboratory for test and opinion.<sup>11</sup>

## **6. Examination of Witnesses**

Soon after the search and seizure at the scene of crime, the investigating officer should search for witnesses to the crime. If the witnesses are readily present, they should thoroughly and separately be examined and their statements be recorded separately as they narrate the incident. The investigating officer should not record omnibus statement of witnesses. If the witnesses are vulnerable they should be ignored. Only reliable and trustworthy witnesses should be picked up for examination. He should rescind from

adopting table investigation. If the witnesses to the murder are not available immediately, they should be searched for, located and examined without delay. If the woman and child witnesses are to be examined, they should be examined at their place of stay and should not be summoned to the police station. In this regard the directives of section 160, 161, 162, 163 CrPC should be complied with.

## **7. Apprehension and Arrest of the Accused**

Undoubtedly, the apprehension and arrest of the accused forms the most important phase and facet of investigation of murder case. The Investigating officer should search for suspect and confirm from the evidence. He should gather evidence from various sources and sides to ensure that the suspect is the real perpetrator. Then, he should effect arrest as per the standard procedures laid down the CrPC, the Police Manuals and the standing guidelines issued by the Supreme Court.<sup>12</sup> There should not be any undue delay or slackness in apprehending the accused, otherwise, the accused would have ample time and opportunity to flee and tamperwith the evidence. He should be thoroughly interrogated to elicit information and confirm his involvement in murder. His voluntary statement should be recorded and in case of any discovery of fact the same should be effected as per the provisions of section 27 of the Indian Evidence Act. If the accused was first seen by the eye witnesses to the murder then the investigating police should arrange for test identification parade as per the requirements and provisions of section 9 of the Indian Evidence Act and section 54A of the CrPC. If the accused wants to confess, the arrangements are to be made accordingly as per provisions of 164 CrPC.

## **8. Filing of Charge Sheet**

It is equally important for the investigating police to file charge sheet to the court in case of murder like in any other serious offences. He should, prepare a draft charge sheet with all necessary documents after the completion of investigation, and take it personally to the public prosecutor for scrutiny. If

the public prosecutor notices any commission and omission in the charge sheet the same should be corrected and tuned up. He should also discuss the file with his superiors. Then file the charge-sheet promptly before the Jurisdictional Court in consonance with the provisions of section 167 and 173 of the CrPC. If any fresh evidence is forth coming, the investigating officer has to file an additional charge-sheet as per section 173(8) of CrPC.

The investigating officer should also write the case diaries promptly and how the day's work turns out during the process of investigation of murder case.

### **III. Investigation of Rape**

Offence of rape has been viewed as the most heinous and serious amongst all crimes that are committed against mankind. It is, in fact, true that the victim of rape is a living dead. She has to undergo, throughout her life time, a lot of mental agony and physical suffering as unimaginable social stigma and prohibition is imposed on her. In India more than 18,000 rape offences are being reported every year. Of them about 3 thousand are against children. Crime clock of NCRB, New Delhi, indicates that there has been a rape every 29 minutes.<sup>13</sup> Therefore, the offence of rape should be viewed very seriously as it is the most heinous of crimes and the perpetrator should be mercilessly punished under law. Hence, it is the duty cast upon the police to investigate the offence of rape very efficiently and effectively to nail the perpetrator to the offence.

### **Meaning and Definition of Rape**

Rape can be meant as the carnal gratification without the consent of victim- woman. It is a ravishing act of man against woman which is punishable under law.

The term 'Rape' has been defined in section 375 CrPC as: "a man is said to commit "rape," who except in the case here in after excepted, has sexual

inter course with a woman under circumstances falling under any of the six following descriptions:

First- Against her will.

Secondly-Without her consent.

Thirdly- With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly – With her consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly- With or without her consent, when she is under 16 years of age.”

### **How to Interview the Rape Victim?**

Since the victim of rape is under depression, shock and anxiety, the investigating police should understand the psychological condition of the victim and interact closely and compassionately by avoiding any instance of intensifying emotional suffering. He should not prolong his interview with the victim, instead, obtain only a brief account of events and a description of the perpetrator so that he can start investigation without delay and defiance of law. While conducting interview an amicable ambience with absolute privacy be created in order that the victim would come out with all details of the crime, freely and frankly. It is also preferable to include a female member to his team if the investigating police is male so that the victim could be morally

encouraged to reveal complete information as to the crime voluntarily. The investigating police should use sober and simple language while interviewing the victim so that the latter will not be hurt.

The detailed information from the victim would help the investigating police to know about weapons displayed, amount of force used, time and duration, whether the victim and suspect were acquainted personally or through friends, and whether their previous contacts, if any, included sexual relations and also of the nature and extent of sexual act done etc.

Once the information is collected the investigating police should register a case under appropriate section of law and then start investigation.

### **Collection of Physical Evidence**

In rape offence the victim is of great importance to the police, because of their ability to provide important investigative leads. Moreover, she is ordinarily a major source of physical evidence. Therefore, the investigating police should follow certain investigative procedures to ensure that physical evidence is not lost or inadvertently destroyed.<sup>14</sup>

The first and foremost is that the victim should be instructed not to douche, shower, or sponge down as it could result in loss valuable physical evidence, such as semen or pubic hairs.

The investigating police should invariably search for the presence of the semen as it could be useful in identifying the assailant's blood type and the presence of semen in the absence of other physical evidence, such as bleeding, bruising or trauma in or near the vaginal area, tends to substantiate occurrence of sexual intercourse. The Supreme Court has come out with appropriate judicial judgments wherein mere contact of penis with female genital is enough to constitute the offence of rape and no ejaculation is necessary and need not always be supported by witnesses.

The living victim should be examined forthwith by a gynecologist, preferably female gynecologist and not in the presence of the male investigating police. The deceased victim should be examined by a forensic pathologist.

The investigating police should collect the victim's clothing for chances of presence of assailant's hair, semen or fibers on the victim's undergarments. The collected clothing of the victim should be packed and sent carefully to the Forensic Science Laboratory for examination. If the assault occurred in a wooded or grassy area, the investigating police should collect the soil, seeds, weeds and other vegetation adhering to the victim's clothing. The list of physical evidence should invariably be collected by the investigating police during the investigation of rape offence is as follows:

1. Finger nail scrapings of the victim;
2. The victim's and suspect's clothing worn at the time of the offence;
3. Collection and packing of physical clues without being contaminated;
4. Samples of soil and other vegetation at the scene of crime;
5. Marking of each item of evidence properly for future identification purposes;
6. Saliva and blood samples for blood grouping determination and secretor status;
7. Visible hair should be properly packed when the condition of the hair may be germane to the investigation; and
8. Hair sample from both the suspect and the victim.

The investigating police should arrange for recording of injuries on the victim from a physician in the presence of female police, nurse etc. As far as possible the injuries are to be photographed, preferably, from a female photographer. Recording of injuries would help the investigator to know and ascertain nature of and magnitude of injuries found on the victim, bite marks, scratches or burns from cigarettes, which will help to determine the *modus operandi* of a suspect.

The other phases of investigation of rape offence are same as that of investigation of murder and other serious offences such as search and seizure, examination of witnesses; apprehension and arrest of the accused, filing of charge sheet and writing of case diary.

#### **IV. Investigation of Cyber Crimes**

One of the latest challenges for the police in the field of investigation is cyber crimes. Advancement in science and technology has brought about a new branch of technology in the area of information which is scientifically known as 'Information Technology'. Information technology while emerging to meet the most urgent and challenging needs of man kind is also helping the criminals and other anti-social elements to pursue their criminal activities beyond the easy catch of the police. These criminal activities in the field of cyber space have resulted in the enactment of Cyber laws like Information Technology Act 2000 in India to combat cyber crimes and criminalactivities very effectively.

At this juncture, it is also essential to understand the difference between the clauses 'cyber crimes' and cyber related crimes. The cyber crimes can be described as crime against an organization or an individual in which the perpetrator of the crime uses a computer or any computer enabled technology for all or part of the crime. In India the perpetrators of cyber crimes are punished under Information Technology Act 2000. Where as in cyber related crimes the computer becomes a part of evidence when a crime is committed with the help of a computer or where computer forms a part of the complete crime scene then the perpetrator will be dealt under the Indian Penal Code or under relevant law.

In this section the nature of cyber crimes and penal sanctions attached thereof alone are discussed briefly.

## **What are Cyber Crimes as per Information Technology Act 2000?**

As far as cyber crimes are concerned, Information Technology Act 2000 (here in after called as I.T. Act) has hardly three sections-65, 66, and 67- which invite penal sanction.

Section 65 of I.T. Act refers to tampering with computer source documents. It defines the offence as “whoever knowingly or intentionally conceals, destroys, or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source-code used for a computer. Computer program, Computer system or computer network, when the computer source code is required to be kept maintained by law for the time being in force shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.”

**Explanation:** - For the purpose of this section “Computer Source Code” means the listing of programmes, Computer commands, design and layout and programme analysis of computer resource in any form.

Section 66 of I.T. Act refers to hacking with computer system. It defines the offence as “whoever with the intent to cause, knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hacking. Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend up to two lakh rupees or with both.”

Section 67 of I.T. Act refers to publishing of information which is obscene in electronic form. The section defines the offence as “whoever publishes or transmits or causes to be published in the electronic form any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter, contained or

embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with a fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend up to two lakh rupees.”

From the definitions of section 65, 66 and 67 of I.T Act it is clear that the following acts constitute cyber offences:

#### **A. Under Section 65 of the Act:**

1. Alteration of computer data.
  - (a) Logic Bomb (b) Trojan Horse (c) Virus (d) Worm (e) false data entry (Data Diddling) (f) Salami Technique (g) Trap Doors (h) Data leakage.
2. Computer Related Frauds
3. Cash Dispenses (b) Computer Forgery (c) Program manipulation (d) program piracy (e) Fraud at payment points.
4. Unauthorized Reproduction.
5. Software Piracy.

#### **B. Under Section 66 of the Act:**

1. Unauthorized access interruption
  - (a) Hacking (b) interception (c) Time Theft
2. Miscellaneous computer crimes
  - a. Theft of Trade secrets.
  - b. Distribution of anti Social material;
  - c. Eaves dropping and spying ;
  - d. Masquerading (impersonation);
  - e. Piggybacking and tailgating;
  - f. Scavenging and reuse ;
  - g. Scanning;

- h. Asynchronous attacks;
- i. Computer components thefts;

### **C. Under Section 67 of the Act:**

Spreading and distribution of pornography, indulging in obscene chats, messages, e-mail etc are covered under the Act.

Section 43 of I.T. Act refers to civil wrong wherein virus attacks unauthorized coping etc, are covered and here the litigation will be between the two individuals.

### **Who Can Investigate Cyber Crimes?**

Sections 78 and 80 of I.T. Act explain the investigation aspect of cyber crimes. The section 78 envisages that a police officer not below the rank of Deputy Superintendent of Police shall investigate any offence under the Act. The section 80 envisages that any police officer not below the rank of Deputy Superintendent of Police, or a State Government authorized by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under the Act.

### **How to Investigate Cyber Crimes?**

As soon as a case of cyber crime is registered, the investigating officer (of and above the rank of Deputy Superintendent of Police) should commence the investigation meticulously and methodically. He should have great clarity about the nature of crime and must know as to how the proceedings have to be conducted at the scene of crime. He must also be aware of the way as to how search and seizure is carried out. He should not forget to follow the standard procedures laid down under section 100 CrPC and such other guidelines laid down in the Police Manuals and the Supreme Court and High Courts. The search and seizure is to be effected under a panchanama before respectable

local witnesses. Videograph of search and seizure should invariably be taken. The investigating police may summon, if necessary, computer expert and take his assistance in search and seizure. But it should be expressly brought out in the panchanama as well as in case dairies.

It is pertinent to note that the investigating officer should collect all possible information as to what type of computer system is to be seized before starting search and seizure? From where it is to be seized? What are the computer accessories that are to be seized etc.? This contemplation would help the investigating police to quantify men and material to be required for this task. Therefore, it is necessary for the investigating officer to follow certain well established phases of investigation so as to build up the case strongly and to have it successfully prosecuted in the criminal court. The phases would be: <sup>15</sup>

1. The search and seizure at the scene of crime should be conducted under a panchanama before respectable independent witnesses by videographing the whole process;
2. Before the seizure of computer system and its hardware accessories such as keyboard, monitor, CPU, printer etc, pertaining to the crime the imaging or hashing has to be done completely on the site;
3. Before the computer system is seized it should be completely switched off by using the main switch by removing the power cable from the CPU. Neither the accused nor owner should be permitted to switch off the system for they may destroy or incriminate some data which could spoil the evidence to be collected for investigation;
4. While seizing the computer the investigating police should also seize its hardware accessories, including modem and network adapters, as they are often helpful for him in his investigation. For example, the printer may be examined to slave so as to know which particular document was produced by it. Floppies, CDs, pendrives, zipdisks, optical catridges etc, should be seized for they may contain very useful information relevant to the investigation. If the user of the computer has any password, user notes and manuals to operate the computer then they should also be seized. Often,

usage of password by the user would indicate his criminal intention to defraud someone; and

5. Once the seizure process is completed the police investigator should place all the items seized in high density polythene bags or antistatic current baggages. The bags and baggages so used should be properly sealed and labeled with description and location of items. Signature of the police investigator and the panchas should also be put on them. Later, they should be shipped to FSL for expert analysis without delay after obtaining necessary order from the jurisdictional Magistrate. If at all the seized items are to be stored then they should be warehoused in clean, dry and secured place in moderate temperature. Further they should not be placed near any magnetic fields such as live electrical and mechanical apparatus.

### **Computer Forensic Expert Services to Investigation of Cyber Crimes**

The computer forensic expert wing has several facilities to analyse several forms and types of physical evidence necessary for the investigation. The computer expert can examine hardwares such as PCs, Laptops, PDAs, computer and its accessories, cell phones, SIM cards, memory sticks, USB storage devices. He can also analyse storage media such as floppies, CDs, DVDs, Classic Hard Disks, USB storage devices, DAT cartridges, SIM cards, Credit cards, ATM cards etc.

### **Computer Forensic Expert and Physical Evidence**

Computer forensic expert can help the investigating police not only in analyzing the devices but can also render his assistance in taking the hash value of the each storage media at the time of seizure and that hash will be submitted to the court before the analysis at the FSL so that it will be easy to face the defense counsel at the trial. Obviously the hash value provided by the forensic analysis the should match with the hash value available in the court. This will also help the prosecution to link authenticity, continuity and integrity of electronic evidence.

Computer forensic expert examines the items sent for analysis systematically by following the steps of physical analysis, working condition of materials, analysis and storage media which will facilitate the opinion sought by the investigating officer as well as the court.

### **Evidential Value of Computer Forensics**

The Indian Evidence Act, 1872, has been suitably amended by incorporating several provisions to accommodate the nature and veracity of electronic evidence and its admissibility in the courts. Section 3, 22A, 39, 47A, 65A, 65B, 67A, 73A, 85A, 85B, 85C, 88C, 90A and 131 of the Indian Evidence Act will be relevant and useful for the investigating officer to investigate the cyber crimes efficiently and effectively.

### **V. Investigation of Organized Crime**

Paul B. Weston and Kenneth M. Wells, in their outstanding book '*Criminal Investigation-Basic Perspectives*,' have observed that "the major problem in the investigation of organized crime is procedural. How to begin and when to stop. Fighting organized crime is more than a single murder case, a series of drug arrests, the raiding of a house of prostitution, or the exposure of an illegal bankruptcy ring. The investigation must be pursued beyond the operational level to the local overlords of the crime cartel or syndicate and to their allies in local government who have been well bribed to provide protection."<sup>16</sup>

'Organized crime' may be described as any continuing unlawful activity by individual, single or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency. On the other hand, 'crime syndicate' may be described as a group of two or more persons who act either singly or collectively as a syndicate or gang, indulging in activities of organized crime.

Investigation of organized crime begins with intelligence, its collection and interpretation, and its preservation by internal security, safeguarding against syndicate penetration and subversion within the police agency. Investigation then progresses to a comprehensive investigation.

The main characteristic feature of the crime syndicate is unity of action. Criminal actions are directed by executive and management personnel and performed by subordinates in an organization. There is little free lancing but crime is almost a franchise operation. The crime syndicate combines thousands of persons who function as a unit under the command of a boss and several under bosses who operate their organization by remote control, thus insulating themselves from actual criminal operations by the use of buffers or intermediaries. In the crime syndicate there is a line of command and authority. Disobeyed, dissatisfied, disgruntled, dishonest, and inept subordinates are usually eliminated. Another important characteristic of crime syndicate operation is the corruption of weak and foolish public officials to secure immunity from arrest and successful prosecution besides the expansion of the creed of death to the informer to justify the killing of any one who interferes with the operation of organized crime.

An emerging characteristic of considerable importance to investigators is the “wrap-around” nature of syndicate operations. It means expanding mode and method of operations from group to group and from area to area.

### **The Activities of Organized Crime**

Activities of organized crime extend from their initial business of bootlegging, activities having the quasi-approval of the public, black market of consumer services and sales, prostitution, gambling, race betting, cricket betting, matka, lending money at high rates of interest, or manufacturing and selling a good grade of untaxed alcohol, supari killings, kidnapping for ransom, narcotic drug selling, selling of stolen goods, labour racketeering during the labour-management disputes, planned bankruptcy, criminal monopoly by way of threat, wreck, arson to destroy competition and competitors etc.

## **Leads to Syndicates Operations**

Information as to sprouting of crime syndicate activities and their operations can be obtained from different sources of intelligence. Police station level, district level, State and Central level intelligence is of great importance, besides active and cordial relation between these wings.

The local informants, business agents, enemies, competitors, old offenders, descent neighbours can contribute a lot in providing leads to the members of the crime syndicate when there is sudden upsurge in their wealth, money and economic status with astonishing growth and expansion of their business activities. Special and skilled squads at station level, district level, range, state level and central levels will help to track and trap the activities of crime syndicates very effectively and promptly and curb such activities from further growth and expansion.

Maintenance and updating of dossier records of members of crime syndicates will help the investigating police to trace the culprits and to keep constant watch and vigil over their activities. Interception of conversations of members of organized crime through radio wireless, phones, cell phones, e-mail, cell phone SMS, internet and other forms of satellite communications and net workings will help the investigator in a great deal to keep a close and constant watch over the activities of members of crime syndicate.

The investigating police must be acquainted with special laws, if any, to follow the procedures and powers laid down for the investigation of organized crimes. The investigating police must know as to how to examine the scene of crime; effect search and seizure; examine the witnesses; arrest and interrogate the accused; collect other evidence; and prepare and file charge sheet.

The investigating police must have the operational networking of Interpol so that necessary help can be sought in tracing the roots and ramifications of organized crime across the nations.

## **VI. Investigation of Cheating and Frauds**

Investigation of cheating and frauds is very difficult task, because each and every fraud is always committed with distinct skill and technique. Dr. Hans Gross has observed that: "If lawyers find a certain difficulty in understanding the nature of fraud because it is by no means easy to fix the exact line of demarcation between civil wrongs and criminal wrongs, the investigator finds quite, as great a difficulty in carrying on his investigations into them; all the more because a great many frauds demand a mass of special technical knowledge."<sup>17</sup> However, it is the duty of the investigator to instruct himself in these different branches of knowledge and continue study of the cases of frauds and acquire the knowledge through interaction with experts.

The investigating officer must have good rapport with forensic experts' in hand writing, chemists, paper manufacturers, botanists, photographers and a host of other experts in different fields.

The investigating officer must possess working knowledge of laws and procedures to collect, prepare, pack and parcel the disputed false documents for forensic science Laboratory for expert opinion.

The investigating officer must possess motherly patience and elephantine energy to use and face the investigative challenges of frauds. Often search and seizure of false documents will consume lot of time and energy. Apart from this, the process of preparing, sending and seeking of expert's opinion will further consume time and energy of the investigator.

Falsification of documents is the main crux of frauds. Falsification of documents is done completely or partially to defraud the innocent victims to gain financial and other benefits.

Falsification of documents may be of letters, passports, financial documents, orders, records, tickets, receipts for payments, Wills, Historical documents, paintings, books and antiques.

## **Examination of False Documents**

The investigating officer must follow the methods of detection of forgery and falsification of documents in consonance with the ways and means through which the culprits have forged or prepared false documents.

***Examination of Questioned documents:***<sup>18 courtesy</sup> In examination of questioned documents, identification of hand writing, evaluation of typed script, examination of writing materials, matching of seals, stamps and torn edges, reconstruction of burned documents, study of secret writings and evaluation of altered documents form the most important aspect of investigation.

In partly genuine document, falsification may be looked in to carefully by following items of erasures with chemicals, erasures by mechanical means, additions, obliterations, removal of portion of text or destruction of the base.

In **Hand Writing** the following types of identifications are required:

**I. Signature forgery:** In signature forgery the following questions will be asked for Identification:

1. Are the signatures in the hand of the suspect?
2. Are the signatures in the hand of the victim?
3. Are the signatures traced?
4. Are the signatures disguised?
5. Are the signatures transplanted?

**II. Holograph:** The documents written and signed by one person called a Holograph. The question asked is:

1. If the document holograph is written by the suspect or by the victim?

**III. Anonymous Letters:** The questions asked about the anonymous or Pseudonymous letters are:

1. Where has the letter emanated from?

2. What is the education caliber of the writer?
3. What is the occupation of the writer?
4. Were the given letters written by one person?
5. Is the suspect the author of the letters?

**IV. Alterations:** The questions asked for alterations in the documents are:

1. Were the changes made at the time of writing the documents or were they made later?
2. Are the changes committed in the hand of original writer?
3. Are the changes committed in the hand of the suspect or in the hand of victim?

**V. Typed Script:** If the given document is typed on a particular typewriter or computer the following questions demand attention:

1. Is the given document typed on a particular typewriter or computer?
2. What is the make and model of the typewriter or computer?
3. Was the document typed on one or more than one typewriters or computers?
4. Are there any additions, alterations or substitutions to the original text? If so were they made on the same typewriter or computer or on different one.
5. Is there erasure in the typed script? If so, what was the original text?
6. Is the document a true carbon copy of the original document or *vice versa*?
7. What is the age of the typed document?
8. Can the typist be identified?

**Writing Material:** In the writing of a document, paper, ink, pen pencil, blotting paper and erasers are used some times the materials prove useful.

**A. Paper:** The following questions are asked about the paper:

1. Is the whole document written on a similar kind of paper?
2. What is the age of the paper?

3. Is the surface of the paper been altered?
4. Does the piece of paper form a part of another piece of paper?
5. Is the paper similar to the given sample?
6. Does the paper contain any secret or indented writing?

**B. Inks:** The following questions are usually asked about the inks:

1. Is the whole document written in the same ink?
2. What is age of the writing?
3. Has the ink come from the given inkpot?
4. Can the faded ink be restored?
5. Can the erased writing be read?
6. Are the additions, alterations, substitutions and cancellations carried on with the same ink?
7. Can the obliterated writing be made legible?

**C. Pen or Pencil:** The following questions are asked about the pen/pencil used for creating a false document:

1. Is the whole document written with the same pen/pencil?
2. Are the additions, alterations or substitutions carried on with the same or different pen/pencil?
3. Are the questioned parts written with the given pen/pencil?

**VII. Mechanical Match:** In case of comparison of seals, stamps, trade marks, carbon copies etc., mechanical match becomes an important element of investigation.

**VIII. Location:** It refers to the place from where or person from whom the questioned document is procured. The location includes whether from the culprit, or from the victim or from the office or from other source or place.

### **Procedures for Collection of Questioned Documents.**

The investigating officer has to follow three stages for collection of questioned documents for investigation.<sup>19</sup>

1. **Disputed writings.** In this stage the investigating officer will have to seize the disputed writings under a panchanama for investigation.
2. **Request writings.** In this stage the investigating officer has to collect writings from the culprit before panchas and obtain the signatures of the panchas on the sheets of request writings. The minimum number of request writing should not be less than six.
3. **Admitted writing.** In this stage the investigating officer has to obtain the earlier writings of the culprit.

After completion of collection of questioned document or any other material, the same will be sent with duly filled up pro-forma in carefully packed and sealed covers to Forensic Science Laboratory for expert's opinion. The investigating officer should ensure the safety of the articles during transit to the Forensic Science Laboratory. The articles should be intact.

## Ends Notes

1. Paul B. Weston and Kenneth M. Wells: *Criminal Investigation- Basic Perspectives*: Prentice-Hall, Inc., Englewood Cliffs, N.J., 1970, pp.242-243
2. Julian b. Roebuck: *Criminal Typology*: Spingfield, Ill.; Charles Publisher, 1967, pp.218-19
3. Dr. Hans Gross; *Criminal Investigation*: Universal Law Publishing Co. Pvt. Ltd. Delhi, 5<sup>th</sup> ed. (Second Indian Print-2002) pp.308-329
4. Charles R. Swanson, Jr, Neil C. Chamelin & Leonard Territo; *Criminal Investigation*: Goodyear Publishing & Others: Co. Inc. California, 1977, p.186
5. Dr. Hans Gross; op. cit. p.78-88
6. Charles R. Swanson Jr. & Others: op. cit. p.192
7. **Ibid**, p.193
8. **Ibid**, p.200
9. **Ibid**, p.203
10. *The Karnataka Police Manual*: vol-II, chap.XXIX, p.152
11. Sharma B. R: *Forensic Science in Criminal Investigation and Trials*: 3<sup>rd</sup> ed, Universal Law Publishers Co. Pvt. Ltd. Delhi, 1999, p.743-745
12. *D.K. Basu v. State of West Bengal*, AIR, (1997) SC 610
13. *National Crime Records Bureau*: New Delhi, 2005
14. Sharma B. R op. cit. p.771-775
15. Barkha & U. Rama Mohan: *Cyber Law & Crimes*: Asia Law House, Hyderabad, 1<sup>st</sup> ed, 2006, p.27-38
16. Paul B. Weston & Hall Kenneth M. Wells op. cit. p. 251- 261
17. Dr. Hans Gross: op. cit. p. 360
18. Sharma B. R: op cit. p. 355-564
19. *The Karnataka Police Manual*: vol-I; chap. XXXVII p. 288-300.