

Article: Narco Analysis and Its Significance

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Abstract

In any criminal investigation, interrogation of suspects and defendants plays an important role in extracting the truth from them. Narco analysis in the light of Article 20 (3): The discussion on Article 20 (3) sets out three requirements that having to have to be met for protection under application of Article 20 (3). If one of those conditions is not satisfied with Article 20 (3) cannot be invoked. If Narco analysis is performed on an accused, is certainly the first condition of Article 20 (3). However, whether the question is to undergo a suspect of such a test also fulfills the requirement of Article 20 (3). In the case of Andhra Pradesh State v. Smt. Inapuri Padma, the court a few suspects found a Narco analysis test to undergo, that the question to the assessment of testimonial compulsion with suspicion not arise to set.

Keywords: Narco, Criminal Investigation, Article, Section, Clause.

1. Introduction

In any criminal investigation, interrogation of suspects and defendants plays an important role in extracting the truth from them. Since time immemorial, different methods, many of which were based on a form of torture, were used by the investigating authorities to obtain information from the accused and suspects. With developed with the progress of science and technology, sophisticated detection methods, which do away with the use of "third degree torture" by the police. Scientific instruments of interrogation namely- the polygraph or lie detector test, which P300 or Brain Mapping testing and analysis Narco or Truth Serum tests are the three main tests that have been developed recently for the extraction of confessions. These psychoanalytic tests are also to interpret the behavior of the criminal (or suspicious) and confirm the observations of officials employed the study ". However, the legal issues concerning the validity of the tests as the analysis Narco are raised, with a little" in its validity to support the light of the principles of law and other they reject as a clear violation of the constitutional provisions. It said that the Narco analysis a clear violation of Article 20 (3) of the Indian Constitution. In this time of ever-increasing crime rate, these tests do, however, often a lot of help to the investigating authorities and therefore it blend Article 20 (3) with the Narco Analysis.

2. How Narco Analysis is conducted

Let's first understand what Narco analysis and how it is performed. This will help us to determine whether these tests actually infringe Article 20 (3). In India, forensic laboratories in Bangalore and Gujarat, Narco analysis is the injection of 3 grams sodium pentothal sodium in 300 ml of distilled water and the solution is given intravenously dissolved together with dextrose in a period of 3 hours with the aid, administered the anesthesiologist. Obviously this test has some invasion of the body. The rate of administration is controlled to slowly drive the suspects in a state of hypnotic trance. The ECG

and blood pressure are continuously monitored throughout the test procedure. The revelations during the hypnotic trance be recorded in video and audio tapes. The questions were designed with care and be repeated with emphasis on the ambiguities in interrogations drum. The report of the expert is prepared to gather evidence in the process. A person is to be able with the help of his imagination.

In the Narco analysis test, the subject enters into a phase of "Twilight", the phase and out of consciousness. In this state, it becomes difficult to lie for him to facts and would his answers limited to, is already known. Before testing, the approval of the court and the written consent of the subject is provided, which are necessary for carrying out the tests. The process is illustrated on the issues. The test is carried out only in the presence of forensic and medical experts. The next, it become imperative to analyse article 20(3) of the Indian constitution clause (3) of Article 20 declared that no person accused of an offence shall be compelled to be a witness himself.

3. Constitutional Validity of the Test

This provision may be stated to consist of the following three components:

- It is a right of a person accused of an offense concerning
- There is to be a witness , a protection against the forced and
- There is a systematic protection against such coercion to incriminate him.

The privilege under clause (3) is only a defendant, that a person against whom a formal accusation was leveled in relation to the commission of a crime in the normal course, that charge may result. A person against whom first information report of the police investigation and was registered, was ordered by the magistrate, may require the benefit of protection.

In addition, refers to the guarantee in Article 20 (3) against the compulsion is to be "finished". , In the State of Bombay v Kathi Kalu Oghad a Supreme Court bench of eleven judges said. "It is known that the clause (3) of Article 20 is directed against self-incrimination accused of the person has self-incrimination, the transmission of information on the to understand the basis of personal knowledge of the person providing information and include not only the mechanical process of document produce in court that shed light on one of the points at issue can, but do not presuppose the third component of the article of the on based on his personal knowledge accused."20 (3) is that it is a prohibition only against the coercion of the accused to testify against himself. In Kalawati v H. P. state has the Supreme Court held that Article 20 (3) does not apply even to a case in which the confession of the accused was made without instigation, threat or promise.

Narco analysis in the light of Article 20 (3): The discussion on Article 20 (3) sets out three requirements that having to have to be met for protection under application of Article 20 (3). If one of those conditions is not satisfied with Article 20 (3) cannot be invoked. If Narco analysis is performed on an accused, is certainly the first condition of Article 20 (3). However, whether the question is to undergo a suspect of such a test also fulfills the requirement of Article 20 (3). In the

case of Andhra Pradesh State v. Smt. Inapuri Padma, the court a few suspects found a Narco analysis test to undergo, that the question to the assessment of testimonial compulsion with suspicion not arise to set.

So, I think that if a person who is suspected of some information to have in relation to the commission of a crime, it should be as a protection to add to it a prohibition of a Narco Article 20 (3) is only available in a person accused of a crime. Another requirement of Article 20 (3) is that there is no compulsion to testify against him accused. However, the question of coercion does not arise in the Narco analysis test, because the consent of the person that is supposed to undergo such a test is always taken.

In fact, said the state Supreme Court of Bombay v Kathi Kalu Oghad that there is no compulsion in which a police officer in the investigation of a crime against a specific person, a specific thing for him to do, she asks. The fact that a person was in police custody, as he has an explanation for a conclusion no basis that he forced to make the statement. The simple query an accused by a police officer, resulting in a spontaneous statement that can ultimately be distressing turn out, is not compulsory. Considering all these, you can easily notice that the Narco analysis is not infringed Article 20 (3) to the extent that the person is subjected to this test, not forced to do, but it is done with the consent of the person, the full has knowledge of this test.

The third condition of Article 20 (3) that it be forced to testify against himself. Incriminating statements are only affected by Article 20 (3). When an instruction is incriminatory or cannot be determined only after the test is performed, and not before. So I see no reason to prohibit such a test because there are not enough protections under the Indian Evidence Act available to prevent, under the Code of Criminal Procedure and Article 20 (3), for the inclusion of an incriminating statement when a there is after administration of the test. Performing Narco analysis can investigating authorities will find some information that they help in the investigation of the crime, and then to discover the real culprit. In the event that during the trial, the defendant makes a statement that is distressing that should not be allowed by the court, because it can be used safely to Article 20 (3), but the rest of the information from law enforcement agencies in the event to solve. The foregoing discussion suggests very clearly, can be carried out that Narco analysis test violated without Article 20 (3).

The Indian courts have so far refused to allow the Narco analysis as evidence, but the Narco analysis is carried out by the researchers. The reason for this is that, even if the confession to the police or in police presence is made in court not permitted, the information is allowed, used by an instrument or object in the commission of offenses is discovered. This follows from the wording of Section 27 of the Indian Evidence Act 1872. Section 27 of the Indian Evidence Act of 1872 is based on the principle that if the confession of the accused is supported by the discovery of a fact, the confession can assumed to be true, has been, and they have not extracted. It runs only: (i) when certain facts are in accordance with the discovered as a result of information from a person in police custody accused; and (ii) whether the nature of fact clearly discovered information. If the self-incriminating information provided by an accused person available no danger that they will be admissible as evidence and not by Article 20 (3) touches.

Section 156 (1) of the Criminal Procedure Code , the " to investigate the power of a police officer who identified cases " , it is said that every officer , a police station , without examining the order of a judge in any case , can in the knowable a

judge has power to investigate under the provisions of Chapter XIII or to try . " Investigation", as described in Section 2 (h) defines the Cr.PC includes all proceedings under the Criminal Procedure Code for the collection of evidence by a police officer or by a person (not a judge) that allowed by a judge in this account. Thus, the collection of evidence by the police is legally permitted. Conduct Narco Analysis Test - defendant to investigate by the agency in the process of such tests. The High Court of Karnataka has also a similar observation in the case of Selvi vs. Karnataka from Koramangala police station. This provision is constitutional valid.

Consider now understand analysis, the judicial approach to the Narco. In the case of undeclared Ramchandra Ram Reddy against the state of Maharashtra, the Court the question of whether P-300 increased the polygraph test and Narco analysis is observed in breach of Article 20 (3):

"The question for the assessment is, therefore, whether such a statement can be taken by force by the defendant and asked him to undergo the truth serum under examination against his will. You will see that this statement will result in Article 20 (3) only if there is guilt or distressing the person to make it. if so, or cannot be determined only after the test is administered, and not before. in our view, therefore, there is no reason, the administration of this test to avoid, because there is not enough protection under the Indian Evidence Act, under the Criminal Procedure Code and under the Constitution (Article 20 (3) to prevent the integration of a burdensome statement when you leave after the administration of the test ... is in an adequate protection with respect to the third round (Narco-analysis) present concerns, the use of which, when are and "taken when the agency try investigated to introduce this statement as evidence.

The court dismissed the appeals against these decisions and tests indicated that these tests require not to incriminate the accused or witnesses themselves, and there is therefore no question of violation of Article 20 (3) of the Constitution.

SMT. Selvi and Ors vs. was part of the police station Koramangala, the Court found that the field of criminology has grown rapidly in recent years, and recognize the demand for additional methods of deception and to improve the efficiency of interrogation simultaneously increased. Narco analysis for the criminal investigation is a valuable technique that would deeply affect to accelerate both the innocent and the guilty and so the cause of justice. He also noted that adequate safeguards exist, had to be blamed on the recourse of whether and when examining the Agency targets obtained in evidence, information or statement establishing under Narco analysis test, if the same is carried either by confession, For the rest, statements or information contained in this Test accused may by also show cause their innocence or the discovery of a fact or material object of the offense. If so, is not affected by Article 20 (3).

In the case of George v Rojo. Assistant Police Super Duck Dent, the court allowed detected during a narco analysis test that. In the current techniques used by criminals to commit the crimes very sophisticated and modern The conventional method of interrogation can not produce absolutely no results. For this reason, the scientific tests like polygraph, brain mapping, narco analysis, etc. are now used in the investigation of a case. If these tests are made under strict technical supervision, you can not say that there is no violation of the fundamental rights of a citizen of India guarantees.

In Santokben Jadeja Sharmanbhai v. State of Gujarat, the Court, while confirming the order Narco perform analysis, presented the accused Sharmanbhai Santokben Jadeja that, "when exhausted after exhausting all possible alternatives, to know the truth, and to catch the criminals / accused and when to follow from "agency that no further progress in the investigation and are absolutely dark, there is a need for such a test. based on the disclosures and / or recorded statement during the execution / implementation of the Narco analysis test, can track Agency have a hint that would help further, and / or help the investigation unit to investigate the crime and at this stage, we will not be any bar of Article 20 (3) of the Indian Constitution be any bar items and only perform a test / execution Narco analysis, the accused, the protection is not guaranteed under Article 20 (3) of the Indian Constitution is violated. As mentioned above, and then only on the stage, where to track the agency is likely to use the statement as evidence, and if the guilt and the person burdensome that it makes, tighten by Article 20 (3). The court also noted that several provisions of the law of the Criminal Procedure Code sections 156-159 and other related provisions, collecting the police officers allowed tests under the law. Run the Narco analysis test, the accused is to be considered as a process of determining location of the collection of such evidence into consideration. The investigations of the Agency cannot be prevented from questioning the accused in the investigation phase and restrict Agency study to examine the above two tests, the crime would be tantamount to investigate with the investigating authorities the right to intervene the crime, which it is authorized by law.

In Dinesh Dalmia against the State, the Court held that if the defendant had allegedly used the truth, the scientific knowledge of the Agency for the investigation, to come forward. This course is not witness coercion. From the above, it is quite clear that behavior Narco analysis test does not infringe Article 20 (3) itself. Only after performing the test, if the information to have spread, which is onerous, it is in Article 20 (3) to be hit. Other information that discloses helps the investigation during the test. So, there is no reason why we should ban such a test on the grounds of unconstitutionality.

4. Guidelines before Conducting the Test

Indeed, the revelations sensational cases of Mumbai were series train blasts, explosions found in Delhi, Malegoan and more recently in Hyderabad and in various other sensational cases of national and international branches during Narco analysis very useful in solving. In most of these cases, the revelations have led to the discovery, facilitate information incriminating evidence truth and thus the recoveries were made in the large number of cases of U /s 27 of the IEA. Thus the Narco analysis proves to be a useful tool in the field of criminal investigation. However, the legal obstacles to the use of this technique should be removed first before use. It time for this test merge with Article 20 (3) such that no question of its constitutional validity is raised. To this end, it is important that the Union Government should come up with specific guidelines that must be followed strictly during this test run.

1. The approval of the court and the written consent of the person who is subjected to a test should be mandatory.
2. The person who is supposed to undergo such a test, all you need to know about the test must be given before he is asked to sign the consent form.

3. Inspection and surveillance of forensic laboratory must be carried out under the autonomous bodies, as NHRC and the United Commissions on Human Rights.

4. NHRC suggested that at the time of the polygraph test, a forensic psychologist, a psychiatrist and an anesthetist must remain present. Can such a team be addressed at the time of the Narco analysis to remain present continue recorded with the additional guarantee for all audio and video.

5. Conclusion

In conclusion, I quote, Dr. RE home address for the first annual meeting of the Eastern Society of Anesthesiologists in 1925 on the role of his scopolamine Test: "The company has the right to protect against criminals, and all rights the company is clearly superior to those of criminals. it can no gainsaying be the fact that a suspect is either innocent or guilty, and no one knows the truth better than not even suspect. And "therefore obvious that if a measure there safely and existing human elicit the truth from the consciousness of the suspect, which has the company the right to have the truth. If the company has the right to property, freedom and life for her protection, then the company has the right to be trained to do Men what the use of serum from the right truth. The authors of the Charter of Rights believed that the company had the rights of the utmost importance for the rights of criminals. And "state is an instrument to protect the innocent and not intended for the acquittal of the guilty."

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