

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/299368935>

ROLE OF DOCTOR IN INVESTIGATION OF ALLEGED CANNABIS CULTIVATION

Article · July 2012

CITATIONS

0

READS

32

2 authors, including:



Anand Mugadlimath

S.Nijalingappa Medical College & H.S.K.Hospital & Research Centre

81 PUBLICATIONS 65 CITATIONS

SEE PROFILE

Some of the authors of this publication are also working on these related projects:



Epidemiological study of fatal burns cases, 5 year retrospective study [View project](#)



THE RELATIONSHIP BETWEEN CLOSED KINETIC AND OPEN KINETIC CHAIN STRENGTHENING EXERCISE FOR LOWER LIMB EXTENSORS ON JUMPING PERFORMANCE IN COLLEGIATE BASKETBALL PLAYERS MASTER OF PHYSIOTHERAPY (SPORTS PHYSIOTHERAPY) [View project](#)

Case Report

ROLE OF DOCTOR IN INVESTIGATION OF ALLEGED CANNABIS CULTIVATION

Dr. D Ingale, Dr. A Mugadlimath, Dr. MA Bagali, Dr. S Tiwari, Dr. N Gupta, Dr. C Bhuyar

Authors

Dr. Dharmaraya Ingale
Professor & HOD, Department of Forensic Medicine & Toxicology, BLDEU's Shri B M Patil
Medical College, Bijapur-586103

Dr. Anand Mugadlimath
Assistant Professor, Department of Forensic Medicine & Toxicology, BLDEU's Shri B M
Patil Medical College, Bijapur-586103

Dr. M A Bagali
Assistant Professor, Department of Forensic Medicine & Toxicology, Al-Ameen Medical
College, Bijapur-586108

Dr. Satish Tiwari
Medical officer, PHC Nalatawad, Taluka- Muddebihal, Dist- Bijapur

Dr. Neeraj Gupta
PG Student Department of Forensic Medicine & Toxicology, BLDEU's Shri B M Patil
Medical College, Bijapur-586103

Dr. Chandrashekhar Bhuyar

Number of Pages: 3

Number of Tables: Nil

Number of Photographs: Nil

Corresponding Author: Dr. Dharmaraya Ingale
Professor & HOD,
Department of Forensic Medicine & Toxicology,
BLDEU's Shri B M Patil Medical College,
Bijapur-586103

Case Report

ROLE OF DOCTOR IN INVESTIGATION OF ALLEGED CANNABIS CULTIVATION

Dr. D Ingale, Dr. A Mugadlimath, Dr. MA Bagali, Dr. S Tiwari, Dr. N Gupta, Dr. C Bhuyar

Abstract

As per the Narcotic Drugs and Psychotropic Substances Act, 1985¹ it is an offence to cultivate, process, transport, to have in the house or establish, sell or even purchase cannabis. Secret cultivation of cannabis & its consumption as well is an open secret in the form of Ganja smoking, Ramras, Majoon (the sweet containing cannabis during festivals). Under such circumstances investigation agencies have to use Panchas and experts concerned to identify the plant under cultivation, prepare & submit FIR, investigate and file the charge sheet. Use of expert in such cases is the discretion of investigation officer, failure to select suitable expert can not only damage the case by acquittal but also can invite legal action against the witness / expert. Such a case report is discussed, wherein doctor was made as expert to witness investigation of alleged cultivation of cannabis.

Key Words: Cannabis, marijuana, medical evidence

Introduction

Cannabis, also known as marijuana (from the Mexican Spanish marihuana), and by other nick-names (Weed, Pot and Herb) is a preparation of the Cannabis plant intended for use as a psychoactive drug and as medicine.¹ Pharmacologically, the principal psychoactive constituent of cannabis is tetrahydrocannabinol (THC); it is one of 400 compounds in the plant, including other cannabinoids, such as cannabidiol (CBD), cannabinol (CBN), and tetrahydrocannabivarin (THCV).²

Contemporary uses of cannabis are as a recreational drug, as religious or spiritual rites, or as medicine; the earliest recorded uses date from the 3rd millennium BC.³ In 2004, the United Nations estimated that global consumption of cannabis indicated that approximately 4.0 percent of the adult world population (162 million people) used cannabis annually, and that approximately 0.6 percent (22.5 million) of people used cannabis daily. Since the early 20th century cannabis has been subjected to legal restrictions for its possession, use, and sale of cannabis preparations containing psychoactive cannabinoids. Currently its use is considered illegal in most countries of the world. The United Nations has said that cannabis is the most-used illicit drug in the world.⁴

Though NDPS act⁵ does mention of holding inquiry into place of alleged illegal cultivation by calling experts at the scene, however unfortunately there is no mention as to the specific expert for the said purpose. Here is an interesting case report in which investigating authorities request medical officer of a PHC to act an expert in alleged cannabis cultivation. Facts of the case and its implications are discussed in the present case-report.

Case report

A medical officer working in Primary Health Centre in remote rural area of Bijapur District was called by the police to the scene of alleged cultivation of cannabis. At the scene the Medical officer was joined by the local panchas and the Panchanama was held. The alleged plant under cultivation among the Jowar field as decided by them was cannabis by morphology & smell. Police collected some samples of the plant. Same day night at 11 pm

the police came to Primary Health Centre with packets containing said plant during sleepy hours. Medical officer was requested to sign some documents (to be sent to FSL). The Doctor signed those document and packets without knowing the details mentioned therein. Few months later, the police brought the Forensic Science laboratory chemical analysis report to doctor. On perusal of FSL report, the medical officer issued opinion as 'The cultivated plant is Cannabis'. Two years later, in the month of August 2008, the medical officer received summons from the Hon'ble sessions court. The doctor attended the District Additional sessions court.

During deposition of evidence in the witness box under oath doctor deposed that though he had been to the said field of cultivation, but he did not preserve the sample & has only signed the packets which were brought by the police to his residence in the night. But according to police records the samples were preserved at the scene of cultivation. Hence the Public prosecutor declared the medical officer hostile and cross examined him. After the deposition and cross examination the Honorable presiding officer said "Doctor, you being a government officer, why action should not be initiated against you for not supporting prosecution? Accordingly, a show cause notice was issued to the medical officer through District Health Officer.

Discussion

Cultivation of cannabis or any other prohibited plants is an offence against the state; hence it necessitates legal inquiry in to its illegal cultivation after receipt of information. Though NDPS act⁵ does mention of holding inquiry into place of alleged illegal cultivation by calling experts at the scene, however unfortunately there is no mention as to the specific expert for the said purpose. Hence investigating agencies catch hold of Medical officers, especially in rural areas for the purpose and complete the inquest formalities and file the charge sheet.

No information is available as to the role of doctors in investigation of a case of cannabis cultivation in the standard textbooks of Forensic Medicine and toxicology.^{6,7 & 8} Now the question arises as to-

1. Whether doctors have the expertise to identify the plant? The answer shall be 'NO', since, though the doctor have studied about toxicological aspects of various plants during the under graduate course, however they do not have any practical exposure of cultivation of such plants.
2. Horticulturist or Agricultural expertise services can be utilized for identification of the plant at scene of cultivation. However, the legal provisions as to the use of such an expert are not defined in the law. Even if such an expert was preferred by investigating agencies, still the questions remains, as to what is their practical experience in respect such toxicological plants?
3. Can services of forensic science experts be utilized for identification of plant under investigation of such alleged scene of cultivation? Forensic science experts by their qualification & routine practice only analyze the sample preserved and sent. Hence this expertise is not of use under such circumstances.

Under the Narcotic Drugs and Psychotropic Substances Act, 1985, **Punishment for contravention in relation to cannabis plant and cannabis:** Whoever, in contravention of any provisions of this Act or any rule or order made or condition of license granted there under.⁵

Drugs and Psychotropic Substances Act, 1985 **Procedure where seizure of goods liable to confiscation not practicable.**-Where it is not practicable to seize any goods (including standing crop) which are liable to confiscation under this Act, any officer duly authorized under section 42 may serve on the owner or person in possession of the goods, an order that he shall not remove, part with or otherwise deal with the goods except with the previous permission of such officer.⁵

Duty of land holder to give information of illegal cultivation.-Every holder of land shall give immediate information to any officer of the police or of any of the departments mentioned in section 42 of all the opium poppy, cannabis plant or coca plant which may be illegally cultivated within his land and every such holder of land who knowingly neglects to give such information, shall be liable to punishment.⁵

Conclusions

In reference to the above case following conclusions are drawn:

1. Doctors are not the experts to opine about a plant or poison by its mere physical appearance; hence one should not draw conclusive & dogmatic opinions without confirmatory reports from scientific labs (FSL). If compelled to do so one should resist or avoid by convincing the concerned authorities.
2. One should not sign any documents brought by any one unless the documents are prepared by themselves within the purview of their expertise.
3. One should be very careful while deposing the evidence before honorable court. They should limit their evidence to the contents of documents that are signed by them. Otherwise medical witness may be declared hostile and accordingly cross examined.
4. It necessitates amendment of the act by defining the expert, in the interest of the state. Department of prosecution which presents the fact to court of law knows importance of identity of such banned toxicological plants by the expert, to prove the guilt & punish the offender, hence appropriate directives in this regard should be made available to investigating officers.

References

1. "Marijuana". Oxford English Dictionary. December 2008. Retrieved August 8, 2012. p. 864.
2. Company, Houghton Mifflin. American Heritage Dictionaries .Spanish Word Histories and Mysteries. Houghton Mifflin Harcourt. 2007. p. 142.
3. Fusar-Poli P, Crippa JA, Bhattacharyya S, et al. (January). "Distinct effects of Δ^9 -tetrahydrocannabinol and Cannabidiol on Neural Activation during Emotional Processing". Archives of General Psychiatry 2009;66 (1): p.95-105.
4. Bachs, L; Morland, H. "Acute Cardiovascular Fatalities Following Cannabis Use". Forensic Science International 2001;124 (2): 200-203.
5. The Narcotic Drugs and Psychotropic Substances Act.
6. Parikh's Textbook of Medical jurisprudence, Forensic Medicine and Toxicology. CBS Publishers, sixth edition 2011 P 10.54
7. Modi's Textbook of Medical jurisprudence and Toxicology. Edited by B V Subramanian. Lexis Nexs Butterworth's publishers. 2002 P.408-14.
8. P V Goharaj Textbook of Forensic Medicine. Universities Press Pvt. Limited (India) 2006 2nd edition P 365-65.