

THE EVOLVING FRAMEWORK FOR ELECTRONIC CHATS AS EVIDENCE IN INDIA

BY – NANDIKAA MENON & SWARANGI LONKAR

T.Y.B.A.LL.B.

Thakur Ramnarayan College of Law, Mumbai University

Abstract

The proliferation of digital communication platforms such as WhatsApp, Telegram, and email has fundamentally transformed the nature of evidence in contemporary Indian Legal Proceedings. This paper examines the evolving legal framework governing the admissibility, authentication, and reliability of electronic chats as evidence in India, tracing the doctrinal journey from the Indian Evidence Act, 1872 through the landmark judgements of the Supreme

Court including *Anvar P. V. v. P. K. Basheer* (2014), and *Arjun Panditrao Khotkar v. Kailash*

Kushanrao Gorantyal (2020) to the comprehensive reforms introduced by the *Bhartiya Sakshiya Adhiniyam*, 2023. The paper analysis the mandatory certification requirement under Section 63 of the *Bhartiya Sakshiya Adhiniyam* (formerly under Section 65B of the Indian Evidence Act), explores the multifarious uses of chat evidence across civil, criminal, matrimonial, and commercial disputes, and identifies the significant risks of fabrication, selective presentation, privacy violations and attribution failures. By critically assessing judicial responses to these misuses and mapping the gaps between legislative intent and ground - level implementation, this paper argues that while digital communication represent an indispensable evidentiary resource in the modern legal landscape, their effective deployment demands institutional investment in forensic infrastructure, judicial education and robust procedural safeguards commensurate with the constitutional right to privacy recognized in *K.S.*

Puttaswamy v. Union of India (2017).

Keywords- Electronic evidence, Chats as evidence, Electronic evidence, Admissibility of Evidence, Digital Communication, Documentary Evidence, Mens Rea, Authentication of electronic records, Fabrication of evidence, Right to Privacy, Section 65B of IEA 1872, Section 63 of BSA 2023.

WHAT IS EVIDENCE?

Evidence is factual information used to support a claim or belief. Evidence is a legally recognized means by which a fact in issue or relevant fact is proved or disapproved before a court of law. It is a means which helps to validate or invalidate the facts that are brought. It helps to prove if something is correct or wrong. It is an information and research selected from the best available sources to support a decision. Evidence is used to inform decisions to achieve the most effective outcomes.¹

The “evidence” in lieu of any offence or dispute, is the eye and ear of the court. A proper decision in any case before a court is not possible without knowledge of true facts involved in a dispute. Through the evidence the facts alleged by one party and denied by the other require the court a ascertain whose contentions are true and

¹ NSW Department of Communities and Justice, “What is Evidence?”

for that purpose, the judges have the weigh the evidence available in support of or contradiction to those contentions. Now the question arise that what does the term “Evidence” actually mean?

The term evidence is derived from the Latin word ‘evident’ or ‘evidere’ which means to show clearly, to discover clearly, to ascertain, to prove.’² To make it simpler it can be understood as; ‘Evidence is either written or unwritten allegations in issue between the parties’ OR ‘Evidence is something, including testimony, documents and tangible objects that tend to prove or disprove the existence of an alleged act.’ OR ‘Evidence is something which ascertains the truth of the fact or print in question.’

The Evidence Act of 1872 of India governs evidence as it pertains to legal terminology. Under section 3 of the evidence act, evidence encompasses of both documentary and oral forms of evidence. Oral evidence consists of witness statement that are made to the court verbally under oath. The court must ask assess these oral witness statements to determine whether they are related to or do not relate to the actual facts at issue or concerning the actual facts at issue. Documentary evidence consists of all documents that may be viewed by the court and includes all traditional forms of documentary evidence. Documentary evidence also includes more modern forms of documentary evidence such as e-mails, SMS messages, CCTV video footage, etc.

Evidence presented or produced in the court of law must be legally admissible, relevant, and authenticated in accordance with the provisions of the Evidence Act. The evaluation of evidence is primarily based on its credibility and its probative value. The burden of proof is the party that asserts a particular fact but is required by law to prove the truth of that fact. Evidence can be direct, circumstantial, primary or secondary in nature, and no fact may be proven without the use of valid and admissible evidence.

CHATS AS EVIDENCE

In today’s digital era, communication through electronic platforms such as WhatsApp, Instagram, Telegram, emails, and text messages has become a part of everyday life. We communicate with our spouses, business partners, employers, employees, and friends on this platform every day. Promises are made. Admissions are given. Emotions are expressed. Intentions are revealed. However, when relationships turn sour, whether in a divorce case, a dispute over unpaid dues, breach of Contractual promises, employment conflicts, or other civil disputes, those very WhatsApp messages suddenly become crucial pieces of evidence. Digital conversations are being used more and more in courts as evidence in both criminal cases. Digital conversations can help figure out what really happened, what people meant to do if someone made a threat or if people agreed on something and how people know each other. The questions is can we really trust digital conversations as evidence? There are concerns about whether digital conversations are real, private and safe from being changed or accessed by the wrong people. In India the law says that electronic records are valid. So digital conversations are a part of how the law works today in India and digital conversations are playing a big role, in modern legal proceedings and also becoming more important.

Informal conversations between two individuals can transform into a decisive document in the court. The acceptability of chats as relevant evidence is increasing steadily. But the real question arises whether these chats as evidence are legally admissible and reliable? The answer to this question is ‘yes’ if it is presentenced properly. Chats are classified as electronic records whose admissibility is governed by the Bhartiya Sakshya Adhiniyam, 2023, Information Technology Act, 2000 and through earlier judicial interpretations under the Indian Evidence Act,1872. The Information Technology Act, 2000, Section 2(1)(t) also defines electronic records such as chats, SMS, emails as recognized electronic documents. Presently, electronic records must be accompanied by a proper certificate under Section 63 of Bhartiya Sakshya Adhiniyam, 2023 (earlier section 65B of evidence act) for admissibility. Without this certificate, the opposite party may object to the

² Manupatra, *Law of Evidence – Chapter 1*,

admissibility of the chats at the stage of evidence. In fact, the chats can't be read as evidence without mandatory certificate under 63 BSA or 65B of Indian

Evidence Act.³ The Delhi High Court (in *DELL INTERNATIONAL SERVICES INDIA PRIVATE LIMITED v. ADEEL FEROZE & ORS* 2024: DHC:4954) observed that without such certification, the court cannot accept WhatsApp message printouts or screenshots as evidence⁴.

There is, therefore, a requirement not only to comply with the procedural requirements laid down under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, but also to satisfy the court regarding the manner in which the electronic evidence has been produced and its authenticity. If proper proof is established for the chat records, they may carry a significant amount of evidentiary value. Thus, chats as evidence represent a modern extension of documentary evidence in the digital age.

USE OF CHATS AS EVIDENCE

In the modern digital era, communicating through online platforms such as WhatsApp, Instagram, Telegram, Emails and text messages has become a common part of our day-to-day life for personal as well for professional use. These digital conversations often contain important information relating to agreements, intentions of individuals, disputes among individuals and the relationship between individuals. With the rapid growth of electronic communications, chats have gained significant importance in the legal proceedings. As courts have now recognized electronic records as a valid form of evidence in many cases under Indian Evidence Act, 1872 and Information Technology Act, 2000 they can be useful to prove the intentions of individuals and help to establish facts and prove the communications between the parties. Chats are frequently used in civil dispute, criminal matters, matrimonial matters and in commercial transactions.

Here are few ways through which chats can be used as evidence to prove something

1. To establish agreements or contracts – Chats are commonly used to prove agreements or contracts between parties. In today's digital world, many individuals and business communicate and finalize deals through platforms such as WhatsApp, emails, and text messages. These conversations may contain offers, acceptance of terms, promises, payment details, or other important conditions of an agreement. Courts may consider such chats as evidence to establish the existence of a contract or mutual understanding between parties. For example, if a buyer confirms the purchase of goods through chats and the seller agrees to deliver them, the chat may help to prove that a valid contract existed⁵. Under the Indian Evidence Act, 1872, electronic records can be admitted as documentary evidence if they satisfy the legal requirements regarding authenticity and admissibility.
2. To establish criminal intent (Mens Rea)- Chats can also be used to establish criminal intent also known as Mens Rea, which refers to the mental intention behind committing a crime. Messages exchanged through WhatsApp, Telegram, Emails or any other social media platform may reveal planning, threats, conspiracy, fraud, harassment, or motive of the accused person. Such conversations help the court understand the state of mind and intention of an individual before or during the commission of an offence or crime. For example, chats discussing a planned attack, blackmail or illegal transactions may be used to prove that the accused acted knowingly and intentionally. In criminal cases, these electronic communications often play an important role in connecting the accused to the offence and supporting other evidence presented before the court.
3. To prove relationships and communication- Chats can be used as evidence to prove the existence and nature of relationships and communication between individuals. In the digital era, people regularly

³ Neeraj Dubey, "Admissibility of WhatsApp Chats as Evidence"

⁴ LiveLaw, "WhatsApp Chats as Evidence: How to Produce Them in Court Proceedings"

⁵ *Trimex International FZE Ltd. Dubai v. Vedanta Aluminium Ltd.*, (2010) 3 SCC 1.

communicate through chats which creates electronic records of their interaction. These conversations help to establish whether two or more person were in contact, how often they communicated, and the type of relationship they shared such as personal, professional, business or romantic relationships⁶. Courts may rely on these chat records to understand the connection between parties involved in dispute or offence. Example in matrimonial and family disputes, chats may help to prove emotional relationships, cruelty, harassment. Similarly in business matters, chats discussing meetings, transactions, negotiations, or professional dealings may help to prove commercial relations between parties.

4. To support claims in civil and family matters- Chats are widely used to support claims in civil and family matters because they provide direct evidence of communication, conduct, and interactions between parties. In disputes relating to divorce, child custody, maintenance, domestic violence, property matters or financial disagreements, chats messages often helps the court understand the facts and circumstances of the case⁷. Conversations through messages or text may contain admissions, arguments, threats, emotional abuse, financial discussions or promises made by one party to another. For example, in matrimonial disputes, chats can be used to prove cruelty, harassment, extramarital relationships, neglect or the nature of the relationship [between the spouses. Abusive or threatening messages may support allegations of mental cruelty or domestic violence. Similarly, messages discussing expenses, maintenance payments or responsibility towards children may help to establish financial obligations in family court.

5. To verify timeline and events- Chats play an important role in verifying timelines and events in legal proceedings because they provide a chronological record of communication between individuals. Messages exchanged through social platforms contains time stamps, dates and details that help to establish when a particular conversation or event took place. Courts rely on such records to understand the sequence of events related to a dispute, crime or transaction⁸. Chats messages may also include photographs, videos, documents, voice notes, location details and call records which further strengthen their value. These records help to confirm the presence of individual at a particular place, the timing of meetings or the occurrence of specific incident. For example, in criminal cases chats may help to prove communication before or after the commission of offence, while in civil disputes it may help to establish the timeline of negotiations, payments or agreements between parties. These helps to make chats a as reliable source for reconstructing events and verifying facts. Court use chat records to cross- check statements, identify inconsistencies and determine the actual sequence of events in a case.

6. As admission or confession- Chats can be used as admission or confession when a person acknowledges certain facts, liabilities or involvement in act through electronic communication. Messages exchanged may contain statements in which a person admits guilt, accepts responsibilities, apologies, acknowledges debts or reveals important facts related to dispute or offence. Such admissions are considered relevant because they may directly support the claims or allegations made by another party⁸. In civil cases, chat messages admitting payment obligations, breach of contract or ownership of property can be used as evidence against the person making thee statement. In criminal matters, chats containing confessional statements, acceptance of involvement in a crime, or details about illegal activities may help establish the accused persons connection which the offence. For example, a message admitting participation in fraud, threats, or conspiracy may be relied upon during investigation and trial.

⁶ Shafhi Mohammad v. State of Himachal Pradesh, (2018) 2 SCC 801.

⁷ Dr. Justice Durga Das Basu, Law of Evidence (LexisNexis, 14th edn., 2020) 503. ⁸ Vepa P. Sarathi, Law of Evidence (Eastern Book Company, 9th edn., 2021) 389.

⁸ Ratanlal & Dhirajlal, *The Law of Evidence* (LexisNexis, 28th edn., 2022) 341.

Chats and digital communication have become an essential source of evidence in modern legal proceedings. With the widespread use of electronic platforms individuals communicate important personal, professional, and commercial matters through digital means which often contains valuable information which may help the courts to establish facts, understand intentions and determine the truth in a dispute. It also helps to confirm the timeline of events and serve as admission or confession. Due to their detail and times stamped nature, chats often provide a reliable record of interactions that can help the court. However, the value of chats depends upon their authenticity and its compliance with the legal requirements under Bharatiya Sakshya Adhiniyam, 2023 and the Information Technology Act, 2000. The courts must ensure that such electronic records are genuine, unaltered and properly certified before accepting them as evidence. Thus, chats as evidence represents the growing influence of technology in the legal system. As digital communication continues to grow every day, chats will remain as an important and powerful tool in the administration of justice.

MISUSES OF CHATS AS EVIDENCE

The rapid integration of digital communication platforms into everyday life has simultaneously expanded the evidentiary toolkit available to Indian courts and created fertile ground for abuse. While messaging applications such as WhatsApp, Telegram and Signal generate similar time records that were previously unavailable to litigants, these same features render electronic evidence particularly susceptible to manipulation. The ease with which digital

messages can be created, altered, selectively curated and presented out of context has given rise to a pattern of misuse that threatens the integrity of judicial proceedings across India. The Indian judiciary, though increasingly receptive to electronic evidence, has consistently acknowledged this tension between evidentiary utility and the potential for systemic abuse.

The legal framework governing the admissibility of electronic records in India, principally contained in Section 65B of the Indian Evidence Act 1872⁹, now substantially replicated in Section 63 of The Bhartiya Sakshya Adhiniyam, 2023¹⁰ was designed to make procedural safeguards against exactly such misuse. The Supreme Court, in its landmark ruling in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1, reaffirmed the mandatory nature of the Section 65B(4) certificate and explicitly overruled the relaxation introduced by the bench in *Shafhi Mohammad v. State of Himachal Pradesh*, (2018) 2 SCC 802, emphasizing that strict compliance was essential to maintain the credibility of digital evidence. Despite this, procedural safeguards have not eliminated misuse, in many instances, they have merely shifted the terrain upon which abuse occurs. Litigants, investigators and even legal practitioners have found ways to exploit gaps in verification, court processes, and forensic capacity to introduce tainted or fabricated digital records into proceedings.

Courts across India, from family tribunals to High Courts, have encountered growing instances where chat as evidence has been weaponized rather than deployed in the legitimate pursuit of truth. These misuses are not confined to any particular type of dispute. They surface in matrimonial litigation, criminal prosecutions, commercial disagreements and employment disputes alike. Understanding the nature, taxonomy, and judicial response to such misuse is essential for evaluating the efficiency of the existing regulatory framework and for designing more robust mechanisms for authentication and verification of digital evidence. The following analysis identifies and examines the principal categories of misuse that have emerged in Indian Courts.

⁹ The Indian Evidence Act, 1872, Section 65A-65B (India)

¹⁰ The Bhartiya Sakshya Adhiniyam, 2023, Section 63 (India)

1. Fabrication and Tampering of Chat Records

Perhaps the most direct form of misuse involves the outright fabrication or post-hoc tampering of chat records. Digital messages can be altered with relative ease using widely available editing tools, or by creating fake screenshots that replicate the interface of platforms such as WhatsApp with considerable fidelity. Additionally, cloned applications that mimic the appearance of legitimate messaging platforms have been used to generate fabricated chat records that appear authentic to the untrained eye. Deleted messages may also be strategically omitted, creating gaps that distort the overall conversation in favour of the party tendering the evidence. The Bombay High Court confronted a particularly instructive example of this phenomenon in 2024, when it excluded WhatsApp screenshots from matrimonial proceedings after forensic metadata analysis revealed that the screenshots had been captured two months after the supposed date of the conversation. In depth analysis confirmed that the evidence had been backdated, and the Court rejected the material entirely. The Information Technology Act, 2000¹¹, provides a degree of legal recourse in cases of cyber tampering or fabrication of chat records. However, the practical enforcement of these provisions remains uneven, and the forensic capacity of many courts and investigative agencies to detect sophisticated fabrications remain limited. The Bhartiya Sakshya Adhiniyam, 2023, with its greater emphasis on chain of custody and forensic extraction, represents a legislative attempt to address these concerns, but the gap between statutory design and ground level implementation remains significant.

2. Selective and Decontextualized Presentation of Evidence

A subtler but equally harmful form of misuse involves the selective extraction of messages from a longer conversation to present a misleadingly partial picture of communications. Unlike outright a longer fabrication, this form of abuse works with authentic messages but strips them of the context that would render their meaning clear. A threat extracted from a conciliatory exchange, an admission isolated from surrounding qualifications, or an instruction separated from the question that prompted it, each can be used to distort the judicial record in ways that genuine fabrication might not be required.

Indian Courts have repeatedly noted that a single message read in isolation can be deeply misleading, and have therefore emphasized the requirement that complete conversation threads, including timestamps, must be produced wherever possible. The principle that Courts require the full conversation to understand context, timing, and continuity has been affirmed across multiple jurisdictions. Nevertheless, the burden of demonstrating selective presentations typically falls on the opposing party, which may lack access to the original device or the technical expertise to identify what has been omitted. This asymmetry of information creates structural opportunities for misuse. In matrimonial proceedings, selective presentation has proven particularly prevalent. A spouse seeking divorce on the grounds of cruelty may extract messages that appear threatening without producing the conversational context in which they were embedded, or may omit responsive messages that would substantially alter the evidentiary picture. The Supreme Court in a 2025 judgement addressing the misuse of fabricated evidence in matrimonial disputes, observed that matrimonial laws are intended to deliver justice and not to be weaponized for harassment, revenge, or character assassination, and that the abuse of criminal law has serious consequences for society as a whole. The Court expressly allowed perjury proceedings against parties who had tendered false affidavits and fabricated materials, signalling a firmer judicial stance toward evidentiary misuse.

¹¹ The Information Technology Act, 2000, Section 43A and 72A (India)

3. Violation of Privacy Rights on the Procurement of Chat Evidence

A distinct category of misuse concerns not the authenticity of the chat evidence itself, but the means by which it was obtained. The Supreme Court, in *K.S. Puttaswamy v. Union of India*, (2017), 10 SCC 1¹² recognized the right to privacy as a fundamental right under Article 21 of the Constitution of India. Subsequent decisions have applied this principle to the context of digital communications, raising serious constitutional questions about the admissibility of chat records obtained without consent or through covert surveillance. Instances of privacy violations in this context are numerous and varied. Spouses have accessed each other's devices without consent to extract messages intended as evidence in divorce proceedings. The Chhattisgarh High Court¹³, addressing a related context, held that the recording of telephonic conversations without the knowledge and permission of the person concerned violated the right to privacy under Article 21 and rendered the evidence so obtained inadmissible. Similarly in *Rayala M. Bhuvaneshwari v. Nagaphanender Rayala*¹⁴, the Court held that the act of secretly recording a spouse's conversations and tendering them as evidence constituted an illegal infringement of the right to privacy, and that such evidence, even if true, could not be admitted in Court.

Sections 43A and 72A of The Information Technology Act, 2000, penalize the wrongful disclosure or misuse of personal data, and The Digital Personal Data Protection Act, 2023¹⁵, provides additional safeguards for sensitive personal information that may form part private communications. Despite this layered legal protection, the extraction and use of private chat records without judicial authorization remains widespread, particularly in matrimonial and employment disputes. Parties frequently introduce such records without disclosing the means by which they were obtained, leaving courts to struggle with the tension between evidentiary utility and the constitutional right to privacy.

4. Misuse of Section 65B Certificate as a Formality

The mandatory certification requirement under Section 65(B) of the Indian Evidence Act, reaffirmed by the Supreme Court in *Arjun Panditrao Khotkar* case, was intended to ensure that electronic records were authenticated by a person with direct knowledge of the relevant device and its operation. In practice, however, the certificate requirement has in certain cases been treated as procedural formality rather than a substantive safeguard. Certificates have been issued by individuals without adequate knowledge of the device's technical functioning, or have been drafted in generic terms that fail to attest to the specific conditions required by the statute. Courts have in some instances admitted electronic evidence accompanied by facially compliant but substantively inadequate certificates, undermining the protective purpose of the provision¹⁶. The absence of technical expertise among legal professionals and judicial officers compounds this problem. Where parties and advocates lack the knowledge to scrutinize the contents of a Section 65B certificate, careless compliance with the certificate requirement provides little to no assurance of the integrity of the underlying evidence. The result is that the certificate, designed as a meaningful gatekeeping mechanism, can function instead as a rubber stamp that provides the appearance of compliance without its substance.

5. Use of Chat Evidence Without Establishing Attribution

A further category of misuse arises from the presentation of chat evidence without adequate proof of attribution, that is, without establishing that the messages were sent and received by the persons alleged. The mere presence of a telephone number in a chat record is insufficient to establish that the registered owner of

¹² *K.S. Puttaswamy v. Union of India* (2017) 10SCC 1 (India)

¹³ Chhattisgarh High Court, *Recording Phone Conversations Without Permission Violates Right to Privacy under Article 21*, Not admissible as evidence (Live Law)

¹⁴ *Rayala M. Bhuvaneshwari v. Nagaphanender Rayala* AIR 2008 Andhra Pradesh 98

¹⁵ The Digital Protection Act, 2023, (India)

¹⁶ Pragati Solanki, *Admissibility of WhatsApp chats as Evidence*, 3 J.L. Rsch & Juris. Stud.221 2025

that number authored the messages attributed to them. Devices are shared, accounts are accessed by multiple persons, and in more deliberate cases of misuse third parties may gain unauthorized access to an account to send messages designed to implicate the account holder.¹⁷ Indian Courts have acknowledged that chats alone may not prove who sent or received a message, and that corroborating evidence such as call records, witness testimony, and contextual information is necessary to establish attribution. Nevertheless, parties frequently tender chat evidence with the implicit or explicit representation that the registered account holder is the author of all messages, relying on the opposing party's inability to contest attribution without forensic resources.¹⁸ The Supreme Court has emphasized that even incriminating messages must be supported by independent corroborating evidence before they can form the basis of criminal liability.

6. Leakage and Secondary Misuse of Chat Evidence

Once private communications are introduced into judicial proceedings, they become susceptible to disclosure beyond the courtroom. The leakage of chat evidence, whether through inadvertent disclosure in public proceedings, media reporting, or deliberate dissemination by one of the parties represents a form of secondary misuse that compounds the privacy harm already inflicted by the initial procurement of the evidence. This risk is particularly acute in high profile matrimonial, defamation and criminal cases, where leaked chat records may cause reputational harm to parties that no subsequent judicial vindication can fully remedy.²⁰

Legal commentary has noted that once private chats are shared in court or transmitted digitally, the potential for misuse expands significantly. The absence of systematic mechanisms for the sealing of sensitive digital evidence in Indian Courts, and the limited use of in-camera proceedings for the examination of private communications means that the secondary harms flowing from the introduction of chats as evidence are rarely fully contained¹⁹. Scholars and practitioners have called for institutional safeguards including court supervised electronic vaults, mandatory redaction of sensitive personal information and more consistent use of in camera hearings when private communications are central to the proceedings.²⁰

CASE ANALYSIS: A LEGAL FRAMEWORK

In an age where simple WhatsApp chat can seal a business deal, record a threat, or capture an admission of guilt, the question of whether chat messages can be used as evidence in court has become one of the most practically important matter in Indian Law. As digital communication has replaced letters, phone calls and face to face agreements in everyday life, Indian Courts have had to grapple with a fundamental challenge: how do you ensure a screenshot, something that can be edited in minutes, is trustworthy enough to convict someone, decide a civil dispute, or overturn an election result? The answer lies in a carefully developed body of case law built around Section 65A and 65B of The Indian Evidence Act, 1872. Here we would be discussing five landmark cases that have collectively shaped the rules governing Chat based evidence in India.

¹⁷ How Indian Courts Treat WhatsApp as Evidence, EduLaw

¹⁸ AI, Fake Evidence, False Allegations in Matrimonial Cases, Supreme Court, ShoneKapoor.com ²⁰ WhatsApp Chats as evidence in Indian Courts: Cyber Law View Point

¹⁹ Admissibility of WhatsApp Chats and Digital Evidence in Indian Courts, Irene's Legal

²⁰ Right to Privacy and the Application of the Exclusionary Rule by Indian Courts, International Journal Law Management & Humanities

Case 1: State (NCT of Delhi) v. Navjot Sandhu @ Afsan Guru

Citation: AIR 2005 SC 3820, (2005) 11 SCC 600

Date: 4 August 2005

Judges: Justice P. Venkatarama Reddi and Justice P.P. Naolekar

Court: Supreme Court of India.

This case is one of the most famous one in Indian legal history. On 13 December 2001, five heavily armed terrorists drove a white Ambassador car with a fake Home Ministry sticker into the Parliament House complex in New Delhi. They were armed with automatic rifles, pistols, hand grenades, and explosives. A fierce gun battle broke out with security forces that lasted nearly 30 minutes. All five terrorists were killed, but so were the other nine, i.e., eight security personnel and a gardener. Sixteen more people were injured.

The police arrested four accused people who were alleged to have been part of the conspiracy behind the attack. One of them, Mohammad Afzal Guru became the central figure in the trial. The prosecution wanted to prove that the accused had coordinated the attack through mobile phone calls. They had printouts of the call records from a telephone company as evidence.

Here is where the question of evidence arose. The prosecution wanted to use these call record printouts as evidence. But at the time, the rules under Section 65B said that electronic records needed to come with a certificate from the person responsible for the computer system that generated them. The defence argued that the call records could not be admitted because no such certificate had been produced.²¹

The Supreme Court allowed the call records to be admitted as evidence even without the Section 65B certificate. The Court said that the records could not be proven through the oral testimony of a witness from the telephone company who could confirm they were genuine. In other words, the Court found a workaround: instead of the formal certificate, a human witness could vouch for the authenticity of the electronic record.

Mohammad Afzal Guru was convicted and sentenced to death. The call records were part of the evidence that supported this outcome. This was the first major Supreme Court decision on electronic evidence. It took a flexible approach that courts could accept digital records without a certificate if a reliable witness confirmed their authenticity. But this flexibility would later be observed as creating loopholes and the law was tightened significantly.

Case 2: Anvar P.V. v. P.K. Basheer & Ors.

Citation: (2014) 10 SCC 473

Date: 18 September 2014

Judges: Chief Justice R.M. Lodha, Justice Kurian Joseph, Justice Rohinton F. Nariman

Court: Supreme Court of India

²¹ State (NCT of Delhi) v. Navjot Sandhu @ Afsan Guru, AIR 2005 SC 3820, (2005) 11 SCC 600 (India)

This case came out of a political dispute in the Ernad Legislative Assembly constituency in Kerala. Anvar P.V., who ran as an independent candidate with the support of the Left Communist Party, lost the election to P.K. Basheer of the Indian National Congress led United Democratic Front.²²

Anvar did not accept the result. He filed an election petition in the High Court of Kerala, claiming that Basheer had cheated by distributing CDs and VCDs containing defamatory songs and speeches designed to damage Anvar's reputation and unfairly influence voters. He produced these CDs in court as his main evidence. The High Court accepted the CDs but still dismissed Anvar's petition. Anvar then went to the Supreme Court.

At the Supreme Court, a critical question came up, the CDs had been submitted as evidence, but Anvar had not attached a Section 65B certificate with them. The defence argued that without the certificate, the CDs could not be legally accepted as evidence at all. Anvar's team argued the older Navjot Sandhu approach should be applied, that is, a witness could authenticate the records orally.

The Supreme Court delivered a landmark judgement that changed the law significantly. The Court overruled the approach taken in Navjot Sandhu and held that Section 65A and 65B of the Indian Evidence Act form a complete and self-contained law for proving electronic records.

You cannot bypass Section 65B by using older, general provisions of the Evidence Act.²³

The Court made it clear that any electronic record used as secondary evidence (meaning a copy, printout, or downloaded version, not the original device itself) must be accompanied by a Section 65B certificate. No certificate, no admission. A human witness cannot be a substitute for the certificate.

The only exception is if you produce the original device itself in court (for example, the actual phone or laptop from which the messages were sent), and the owner of that device testifies about it, then no certificate is needed. But for copies and printouts, the certificate is mandatory.²⁴

This is the most important foundational case on electronic evidence in India. It shut the door on the adaptable approach of Navjot Sandhu and made the Section 65B certificate the non-negotiable entry ticket for all secondary digital evidence in Indian Courts.

Case 3: SBI Cards & Payments Services Pvt. Ltd. V. Rohidas Jadhav & Ors.

Citation: 2018 SCC Online Bom 1262, 2018 (5) ALL MR 486

Date: 11 June 2018

Judges: Justice G.S. Patel

Court: High Court of Judicature at Bombay

This is a much more everyday case, but its implications are enormous for civil litigation. SBI Cards and Payment Services had taken a loan defaulter, Rohidas Jadhav to Court in 2011. A consumer court ordered Jadhav to repay his outstanding credit dues with interest. But Jadhav simply refused to engage with the legal process. He kept changing his residence to avoid being served with court notices.

²² Anvar P.V. v. P.K. Basheer & Ors., (2014) 10 SCC 473, Civil Appeal No. 4226 of 2012 (India).

²³ Prasad Krishna, Anvar v. Basheer and the New (Old) Law of Electronic Evidence, Centre for Internet and Society (Sept. 18, 2014)

²⁴ Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

The bank's authorized officer eventually found Jadhav's registered mobile number and sent the legal notice directly to him via WhatsApp as a PDF attachment. The officer then brought screenshots to court showing that the message had been delivered to Jadhav's number and more importantly, that the attachment had been opened. This was confirmed by the WhatsApp interface showing blue double ticks which appear when a message has been read by the recipient.

The question before the Bombay High Court was can a legal notice sent via WhatsApp be treated as a valid service? And are WhatsApp's blue ticks (the read receipts) sufficient evidence that the person actually received and read the notice?

Justice G.S. Patel said yes to both questions. The Court held that the blue tick indicators in WhatsApp clearly showed that the notice had been delivered to Jadhav's number and that it had been opened. The printouts of the WhatsApp conversation were taken on the Court record and accepted as valid proof of service under Order XXI Rule 22 of the Code of Civil Procedure, 1908.²⁵

The Court issued the notice as absolute, meaning Jadhav could no longer claim he had not received it. The bank was entitled to proceed with execution of the earlier court order against him. For the first time, an Indian Court said that WhatsApp delivery receipts and blue ticks are themselves a form of evidence. The court treated the platform's own indicators as a proof of communication. This has massive practical implication, it means that people cannot simply ignore legal or official communications sent via WhatsApp and later claim ignorance.

Case 4: Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal & Ors.

Citation: AIR 2020 SC 4908, (2020) 7 SCC 1

Date: 14 July 2020

Judges: Justice R.F. Nariman, Justice S. Ravindra Bhat, Justice V. Ramasubramanian

Court: Supreme Court of India

In 2014 Maharashtra Legislative Assembly elections, Arjun Panditrao Khotkar of the Shiv Sena

Party won the seat in Jalgaon district by a narrow margin of just 296 votes over Kailash Kushanrao Gorantyal. Gorantyal challenged the result, claiming that Khotkar's nomination papers had been submitted after the official deadline of 3pm on 27 September 2014 which could have made the nomination invalid.

To prove this Gorantyal wanted to produce CDs containing CCTV footage and other electronic records that allegedly showed the timestamp of the nomination submission. The Bombay High Court admitted these CDs as evidence even though Gorantyal had not attached a Section 65B(4) certificate. The High Court justified this by saying there had been 'substantial compliance' with the law. Khotkar appealed.²⁶

The case went all the way to the Supreme Court, where it highlighted a major contradiction between two earlier decisions: the strict approach of *Anvar P.V.* (2014) and a more relaxed approach in *Shafhi Mohammad v. Himachal Pradesh* (2018)²⁷, which had said the certificate was not always essential. The matter was referred to a three-judge bench to settle this conflict once and for all.

²⁵ Bombay HC: Notice Delivered on WhatsApp is Valid, SCC Times (June 25, 2018)

²⁶ The Decision in *Arjun Panditrao: Admissibility of Electronic Evidence in India* Continues to Face Hurdles, SCC Times (June 7, 2021)

²⁷ *Shafhi Mohammad v. State of Himachal Pradesh*, (2018) 2 SCC 801 (India).

The legal issue was whether Section 65B(4) certificate was absolutely mandatory in all cases? Or could courts relax this requirement when Justice demanded it as the Bombay High Court had done?²⁸

The three-judge Supreme Court bench delivered the most comprehensive ruling on electronic evidence to date. It firmly endorsed the strict approach of Anvar P.V. and overruled the relaxed position of Shafhi Mohammad. The certificate under Section 65B(4) is mandatory, without exception for any secondary electronic record. There is no such thing as 'substantial compliance'. Either you have the certificate or you do not.

However, the Court also showed practical wisdom. It recognized that sometimes a party genuinely cannot get the certificate for example, if the records are held by a government agency that refuses to cooperate, or if the original device is in someone else's possession. In such cases, the party can go to the court and ask the judge to direct the relevant authority to provide the certificate. The Court also directed all service providers and government agencies to maintain electronic records for a reasonable time so that parties can obtain them when needed.

The Court also repeated the distinction made in Anvar P.V., that if you bring the original device to court and the owner testifies about the records on it, no certificate is needed. The certificate requirement only applies to copies and printouts that are secondary evidence.

This is the current gold standard judgement on electronic evidence in India. It settled years of contradictory rulings and created a clear, practical framework that certificate is required for secondary evidence and not required for the original devices. And if you cannot get the certificate, the Court can help you get the certificate.

Case 5: Rakesh Kumar Singla v. Union of India

Citation: CRM-M No. 23220 of 2020 (Punjab and Haryana High Court)

Date: 14 January 2021

Judges: Justice Jaishree Thakur

Court: High Court for the States of Punjab and Haryana at Chandigarh.

This case brings the abstract legal rules firmly into the real world of criminal law. Rakesh

Kumar Singla was arrested by the Narcotics Central Bureau (NCB) in connection with a drug trafficking operation in June 2020. The prosecution alleged that Singla has coordinated the sending of two consignments of Tramadol Hydrochloride (a controlled substance), one parcel containing 37,000 tablets and another containing 20,000 tablets through accomplices. A coaccused named Paramjit Kaur had named Singla had in her disclosure statement as the person who directed her to forward the consignments.²⁹

Singla applied to the Punjab and Haryana High Court for regular bail. To oppose the bail, the NCB presented screenshots of WhatsApp messages which they claimed showed Singla coordinating the drug deliveries. The Court asked a simple question: do you have a Section 65B(4) certificate for these WhatsApp messages? The NCB's answer was no.

²⁸ Trisha Chand, Section 65B(4) Evidence Act: Despite SC Decision in 'Arjun Panditrao', Uncertainty Looms Around Electronic Evidence, Live Law (July 22, 2020)

²⁹ Narcotics Drugs and Psychotropic Substances Act, 1985, No. 61, Acts of Parliament, 1985 (India)

The legal problem was could WhatsApp screenshots, produced without a Section 65B(4), be used to deny someone bail in a serious criminal case? Does the seriousness of the offence create an exception to the certificate requirement?

Justice Jaishree Thakur was clear: no certificate, no evidentiary value. The WhatsApp messages had no legal standing in Court because the NCB had not obtained the mandatory certificate under Section 65B(4) of the Indian Evidence Act. Following the Supreme Court's ruling in Arjun Panditrao Khotkar (decided just months earlier in July 2020), the Court said the messages could not be relied upon at all.

As a result, Singla was granted regular bail. The Court was careful to note that the NCB was free to produce the WhatsApp messages as proper evidence during the actual trial, but only after obtaining the requisite Section 65B(4). The decision to release Singla was not a comment on his guilt or innocence, it was purely about the inadmissibility of improperly authenticated electronic evidence.

This case proves that Section 65B certificate requirement is not just a technicality for civil cases or election disputes. Even in serious criminal cases involving drug trafficking, courts will refuse to accept uncertified WhatsApp messages as evidence. The consequence here was a person was released on bail because the government agency did not follow the proper procedure for electronic evidence.³⁰

CONCLUSION

The evolution of chat messages as admissible evidence marks one of the most significant developments in Indian evidence law over the past two decades. From the early flexibility permitted in State (NCT of Delhi) v. Navjot Sandhu, to the strict certification mandate reaffirmed in Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, Indian Courts have progressively built a structured framework for treating digital communications as reliable documentary evidence. Today, the legal regime governing electronic records, anchored in Section 63 of the Bhartiya Sakshya Adhiniyam, 2023, requires that every secondary electronic record be accompanied by a certificate, now mandatorily co - signed by an expert, before it can be admitted in Court. Yet the utility of chat evidence cannot be considered in isolation from the serious risks of misuse it presents. Fabrication of screenshots, selective and decontextualized presentation of messages, procurement of private communications without consent, and the routine tender of uncertified electronic records continue to threaten the integrity of proceedings across civil, criminal and matrimonial courts.

The Supreme Court's recognition in K.S. Puttaswamy v. Union of India that the right to privacy is a fundamental right under Article 21 of the Constitution imposes a constitutional dimension on the procurement and use of private digital communications as evidence, one that courts must weigh carefully in every case.

The Bhartiya Sakshya Adhiniyam, 2023 represents a meaningful legislative step forward, but the gap between statutory design and implementation in courts across India remains wide. Strengthening forensic capacity, improving judicial literacy on digital evidence, and developing institutional safeguards such as Court supervised preservation mechanisms and consistent use of in camera proceedings are essential if the promise of the new framework is to be realised in practice. Chat messages are now an undeniable feature of Indian legal proceedings. The challenge for courts, legislators, and practitioners alike is to ensure that their evidentiary use serves the cause of justice rather than undermining it.

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³⁰ Judging Chats: The Legal Maze of WhatsApp Evidence in India, Live Law (Apr. 29, 2025)