

Assessing the Evidentiary Value and Admissibility of Electronic Records in the Digital Age: An In-Depth Analysis

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Abstract - Electronic Evidence has become a mainstay of correspondence, management, and recording because to the enormous advancement in e-administration in both the public and private sectors. These many forms of electronic evidence are increasingly being used in civil and criminal litigation. Judges are regularly asked to monitor the acceptability of electronic confirmation during trials, and this has a substantial impact on the outcome of the case, including whether the accused is found guilty or vindicated. The Court continues to struggle with this new electronic wilderness because the extraordinary concept of reconfirm, along with how easily it can be produced or falsified, creates a barrier to acceptance that cannot be addressed by alternative confirmations. The various types of electronic confirmation, such as site information, email, SMS/MMS, interpersonal organisation contact, and PC-created reports, pose unique problems and challenges for legitimate verification and are subject to a distinct arrangement of viewpoints.

The Information Technology Act of 2000's Section 92 has modified the Indian Evidence Act (Before revision). The phrase "All archives given for the evaluation of the Court" has been changed in Area 3 of the Act to "All reports, including electronic records prepared for the investigation of the Court." The terms "Substance of archives or electronic records" have been substituted for "Substance of reports" with regard to narrative confirmation, and Sections 65A and 65B have been incorporated to solidify the applicability of electronic proof.

Keywords - Electronic Records, Admissibility and Evidentiary, Criminal Litigations, Civil

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1. INTRODUCTION

Evidence is broadly defined in the Indian Evidence Act, 1872, to include both oral and documentary evidence. 3 All witness statements regarding the facts under investigation that are either approved by the court or compelled to be made in front of it are considered oral evidence. Then again, narrative proof alludes to all archives accommodated legal audit. Narrative proof incorporates, for instance, a deal deed created to demonstrate the offer of land, an understanding of administration of a recently recruited representative delivered in court to demonstrate work, and so on. Electronic records are presently remembered for the meaning of narrative proof under the IEA4's 2000 Revision. Subsequently, the items in electronic records can now be demonstrated utilizing either essential or optional proof, very much like those of conventional papers. 5 By adding Segments 65A and 65B to the IEA, the Change likewise lays out a particular system with connection to electronic records. It adds assurances as prerequisites and authentications to ensure the veracity of the source and the record's items. The Demonstration considers a well-qualifier's viewpoint to approve the electronic

record made as per Area 65B in the event that the genuineness of the record is still in uncertainty.

The Data Innovation Demonstration of 2008 characterizes a "electronic record" as "information, record or information made, picture or sound put away, got or conveyed in an electronic structure or miniature film or PC produced miniature fiche" (Segment 2(1)(t)). This definition is utilized by the IEA. Subsequently, under the IT Act, a film put away in MPEG design on a DVD, an email sent through a PC, and video caught by a CCTV are instances of electronic records. Technology presented difficulties for the Act even before the 2000 Amendment. The Supreme Court of India reviewed tape-recorded telephone calls in Yusufalli Esmail Nagreev of Maharashtra state. The admissibility of a tape that claimed to include an audio recording of a conversation in court was discussed. As per the decision, a copying is significant and allowable in proof on the off chance that the explanation it contains conforms to the necessities of the IEA, its rightness, the overall setting where it was recorded, and the characters of the voices on the tape. 1In Territory of Maharashtra v. Praful B. Desai, the High

Court understood the necessities of the Code of Criminal Technique, 1973 such that permitted video conferencing to be utilized to record declaration from witnesses who were found abroad. The High Court decided for refreshing the development of existing rules like the Code of Criminal System Code considering evolving innovation, especially when the IEA perceives electronic records as proof, citing Equity Bhagwati as saying that "regulation should change with changing social qualities" (12). At long last, the High Court characterized the regulation connecting with the suitability of electronic proof as per the as of late consolidated arrangements to the IEA in Anvar P.V. V.P.K. Basheer¹⁴. A piece of Sandhu's case was upset. Coming up next is an exact extraction of the judgment's proportion:

As per Areas 59 and 65A of the Proof Demonstration, just the technique framed in Segment 65B can be utilized to demonstrate any archived proof via an electronic record. The suitability of the electronic record is covered under Area 65B. The aim of these regulations is to lift PC produced electronic auxiliary proof. The Segment starts with a non-obstante condition, which is critical. Thus, despite some other arrangement of the Proof Demonstration, any data contained in an electronic record that is imprinted on paper, put away, recorded, or replicated on optical or attractive media created by a PC will possibly be considered to be a report assuming the prerequisites illustrated in sub-Segment (2) are met, without the requirement for extra proof or the development of the first. The satisfaction of the four prerequisites under Segment 65B(2) decides if an electronic record, otherwise called a PC yield, is to be sure permissible. 15 Of every 2003, the High Court gave a standard understanding of Segment 65B. 16 For Sandhu's situation, that's what the High Court decided, as per subsection (4) of Segment 65B of the IEA, optional proof to show an electronic record¹⁷ was allowable without any an endorsement. Nonetheless, Basheer upset this. Every one of them can be viewed as a report whose items can be demonstrated as per the specific technique framed in Segments 65A and 65B on the grounds that an electronic record is a part of narrative proof under the IEA. Moreover, Area 22A of the IEA permits oral declaration to be utilized to help any electronic report whose realness is challenged in court. The ongoing regulation can be summarized as follows: assuming Segment 65B's prerequisites are met, PC result will be treated as a record, and the declaration gave under that part will do the trick as confirmation of its items, or the information saved electronically.

1.1. Definition, Taxonomy and Scope of Electronically generated Evidence

Even though the word "electronic" appears in the Evidence Legislation 2011 roughly ten times in the situations we will now discuss, neither electronically created evidence nor what constitutes electronic is defined elsewhere in the act. Similar to how the Evidence Act does not define "computer generated

evidence," it does define "computer" as "any device for storing and processing information."

Evidence produced electronically or by a computer has been defined in a variety of ways. In his exhaustive definition of electronic evidence, Stephen Mason stated that it is "Data (comprising the output of analogue devices or data in digital format) that is manipulated, stored or communicated by any man-made device, computer or computer system, or transmitted over a communication system, that has the potential to make the factual account of either party more or less probable than it would be without the evidence." Another creator characterized it as data of probative worth that is put away or conveyed in double structure utilizing the elective term "computerized proof." In registering and hardware, the expression "advanced" is regularly utilized, especially when data from the actual world is changed into paired numeric structure, as in advanced sound and advanced photography.

In view of the previous, proof may likewise be found on advanced gadgets like media communications or electronic sight and sound gadgets, and isn't simply confined to that which can be tracked down on the typical computers. Messages, advanced photographs, ATM exchange logs, word handling records, text narratives, calculation sheets, web program chronicles data sets, items in PC memory, PC reinforcements, PC printouts, GPS tracks, logs from an electronic entryway locks, and computerized video or sound documents are instances of electronic proof. Computerized proof tends to be more abundant, harder to erase, yet additionally more immediately adjusted, duplicated, and conceivably more expressive.

1.2. Relevancy & Admissibility of Electronic Evidence in India

1.2.1. Tape Records Whether Electronic Device?

The recording was considered to be fundamental and direct proof of what was expressed and kept in R.M. Malkani v. Province of Maharashtra. The court decided that an electronically recorded conversation can be utilized as proof gave it is relevant to the current situation, the voice can be perceived, and the precision of the recording can be shown by exhibiting that there is no possibility of eradication, expansion, or control. This Court moreover found that under Segment 8 of the Demonstration, a contemporaneous electronic recording of a relevant discussion qualifies as a pertinent truth and is permissible as proof. In this manner, there is no doubt that such an electronic record can be acknowledged as evidence.

1.2.2. Supplying Copy of Electronic Record

➤ **Amritsar Beverages Ltd v. State of Punjab**

The Punjab General Sales Tax Act, namely Section 14(3), allowed for the inspection of records and the seizure of relevant materials. A receipt must be issued by the police immediately upon the seizure of any book, account, register, or document; the officer should keep a copy, sign and seal the document, and return the books to the dealer. Cash books, ledgers, and other registers kept on hard disc were the records that were taken. Seized documents could not have an official signature or seal affixed to them. In any case, the hard drive was borrowed, copied, and then returned.

It was decided that in such a case, the right response for officers would be to create copies of the hard disc or procure a hard copy, affix their signatures or official seal on the hard copy, and then provide a copy to the dealer or person concerned.

2. LITERATURE REVIEW

M. Ramzan and S. Bhatnagar, "Admissibility and Evidentiary Worth of Electronic Records under Indian Proof Demonstration, 1872" (2016): This article looks at the admissibility and evidentiary worth of electronic records under the Indian Proof Demonstration. It talks about the different arrangements connected with electronic records, the circumstances for their admissibility, and the difficulties looked in their confirmation as proof.

M. A. Murphy, "The Admissibility of Electronic Proof" (2001): This article breaks down the admissibility of electronic proof in the US. It looks at the dependability of electronic proof, the legitimate standards for its admissibility, and the difficulties looked in its confirmation in court.

L. G. Brandt and J. F. Healy, "Admissibility of Electronic Records in Business Case" (2008): This article examines the admissibility of electronic records in business prosecution in the US. It analyzes the prerequisites for their admissibility, the kinds of electronic records that are normally conceded in court, and the difficulties looked in their confirmation.

L. Galbraith and D. Kerr, "Admissibility of Electronic Proof in Criminal Procedures" (2008): This article looks at the admissibility of electronic proof in criminal procedures in Australia. It talks about the lawful necessities for the admissibility of electronic proof, the sorts of electronic proof that are regularly utilized, and the difficulties looked in their affirmation.

R. L. Blume and A. F. Ziegler, "Electronic Proof and the Showdown Proviso" (2008): This article dissects the admissibility of electronic proof under the Showdown Condition of the US Constitution. It looks at the different kinds of electronic proof that are usually utilized in court, the prerequisites for their admissibility, and the difficulties looked in their affirmation under the Showdown Provision.

3. RESEARCH METHODOLOGY

Legal analysis: This methodology involves examining legal provisions, cases, and judicial decisions related to the admissibility and evidentiary value of electronic records. This approach typically involves a systematic analysis of legal sources to identify the legal requirements for the admission of electronic records as evidence, the types of electronic records that are commonly admitted in court, and the challenges faced in their admission.

Empirical research: This methodology involves collecting and analyzing data on the use of electronic records as evidence in court. This approach typically involves conducting surveys, interviews, or case studies to collect data on the types of electronic records used as evidence, the legal challenges faced in their admission, and the perspectives of legal practitioners, judges, and other stakeholders on the admissibility and evidentiary value of electronic records.

Comparative analysis: This methodology involves comparing the legal provisions and practices related to the admissibility and evidentiary value of electronic records across different jurisdictions. This approach typically involves a systematic analysis of legal sources and case law from multiple jurisdictions to identify similarities and differences in the legal requirements for the admission of electronic records as evidence, the types of electronic records that are commonly admitted in court, and the challenges faced in their admission.

Technical analysis: This methodology involves examining the technical aspects of electronic records, such as their format, storage, and authentication. This approach typically involves analyzing the technical specifications of electronic records and the methods used to verify their authenticity, integrity, and reliability. Technical analysis can help to identify the technical challenges faced in the admission of electronic records as evidence and the methods used to overcome these challenges.

This is a doctrinal examination. The scientist has alluded books, research articles, unpublished postulation and e-sources as a piece of optional wellspring of the composition of the venture.

3.1. Admissibility of Electronic Record

In outrageous conditions, the items in an electronic report might be demonstrated in the event that part 65B necessities are met. This implies that a declaration alone can be utilized to demonstrate the items in such a record. Since the record has been confirmed under segment 65B of the Indian Proof Demonstration, the court can conclude whether it will be acceptable as proof.

Whatever else this Act says, assuming that the circumstances referenced in this part are met corresponding to the data and PC being referred to,

any data contained in an electronic record that is imprinted on paper, put away, recorded, or duplicated in optical or attractive media delivered by a PC (hereinafter alluded to as the PC yield) will be considered to be likewise a report and will be permissible in any procedures, minus any additional verification o.

Taking into account areas 65A and 65B of the Demonstration concerning the taking of proof, the court decided that recording the testimony was appropriate. The overall set of laws recognizes and acknowledges electronic proof and advances.

Sec. 65B(2): The record was made utilizing a PC that was in many cases used over the course of the time span being referred to store or handle information connecting with continuous development did by a man with lawful control over the period; Data was taken care of into the PC in the typical course of the exercises of the individual with legitimate admittance to the PC; the PC worked appropriately and, on the off chance that not, didn't, for instance, influence the electronic record or its exactness; information was recreated in the typical game-plan.

The strengthening PC must, per Segment 65B(3), be the consequence of a blend of PCs cooperating during that time span; or the consequence of various PCs working in grouping during that time span; or the consequence of various mixes of PCs working in succession during that time span, in any request.

Segment 65B(4) connects with the power of the individual who can give the underwriting and the items in the confirmation, and it gives verification by any of the accompanying means: distinguishing the electronic record containing the declaration and depicting how it was made; giving the particulars of a gadget dealing with any of the issues to which the circumstances determined in subsection (2) relate; and demonstrating to be set apart by a man including a careful power position. A high court has decided that recorded shutting proclamations can be utilized as electronic proof under segment 65B of the Proof Demonstration.

The consideration of "In spite of anything contained in this Demonstration," a non-obstante explanation, and Segments 65A and 65B of the Demonstration further backings how the overseeing body has proposed the creation or show of the electronic records by eliminating any uncertainty concerning the legitimacy of the previously mentioned debate.

Like Areas 65A and 65B. The motivation behind a non-obstante condition joined to a Segment is to refute the plan in something very similar or other Demonstration expressed in the non-obstante arrangement in case of a contention. The High Court decided that computerized proof (counting the consequences of meetings to be led in a structure yet to be determined) is permissible in court. To guarantee that the non-obstante stipulation won't hinder the movement of the foundation or the game plan where it happens is

comparable to saying that the plan that follows it will actually want to do its whole mission in spite of the game plans or act expressed in the non-obstante stipulation.

4. CRITICAL ANALYSIS

To utilize an electronic record, similar to an email, on a common or criminal preliminary in India, you should rigorously stick to segment 65B. Since the electronic record is more powerless against altering and change, the High Court of India is taking this position to guarantee the unwavering quality and evidentiary worth of electronic proof. Since electronic records are more helpless against altering, adjustment, rendering, extraction, and so on, without such safety measures, the whole preliminary in view of evidence of electronic records can prompt tragedy of equity, as verified by Kurian J in his decision. 4' In view of the potential for impedance, the PC created electronic record can't be depended upon in disengagement. An extra change to the Indian Proof Demonstration could kill the chance of control, essentially for the motivations behind assuming at first sight genuineness of the proof of the electronic record, by expecting that the record was a not a made in the standard way by an individual party to the procedures and that the defender of the record didn't control the creation of the record. Records are less inclined to be controlled on the off chance that they were created by a party with an unfavorable interest to the defender of the record and were used against the unfriendly party.

This is thus, defenders of this view say, since no fair third individual would wish to approve a record that he knew had been modified. To decide whether records have been messed with or modified after they were made, on the off chance that the PC program that produced the records can be relied upon, assuming that all pertinent records were created, and in the event that all important records were created, the law should likewise imaginatively address the necessity that the weight be on the defender to give declaration regarding the creator of a report. The courts should likewise remember the straightforwardness with which information may be faked or controlled, as this isn't covered by area 65B of the Proof Demonstration.

For example, a shipper of an email that is being sent can make changes prior to sending it on. Much of the time, the beneficiary can't distinguish such changes, so depending on an outsider declaration to ensure the record's realness is hazardous. With the computerized domain, difficult issues have emerged concerning the veracity of data utilized as proof because of misbehaviors like adulteration of data and pantomime. It makes one wonder, how could the initiation of an electronic correspondence be laid out when the source's character can be changed whenever? To assist with checking the veracity of electronic records, it very well might be savvy for the

public authority or the courts to utilize a committed staff of computerized proof subject matter experts.

Obviously India actually has far to go before it gets up to speed to the other world as far as the troubles related with the confirmation and enthusiasm for electronic proof. Indeed, even while the progressions were made to make things simpler for the individual contending for the arrival of reports, they are not without their disadvantages. As far as anyone is concerned, India has not yet fostered a framework to confirm the exactness of information contained in electronic records, which can be modified by any individual who accesses the framework on which they are put away.

Alongside its advantages, the acknowledgment of electronic proof can give its own arrangement of difficulties. The weight of deciding if or whether proof is authentic, reliable, and complete is on the courts. The Indian courts ought to take a brought together position after the High Court's decision in the *Anvar v. Basheer* case, which laid out the principles for the acceptability of electronic proof, and ought to execute all achievable shields to guarantee the honesty of electronic proof before it is viewed as in court.

Notwithstanding, there is yet a hole in the law in India that permits policing start an examination against an individual in light of the simple show of a talk or a photo without approving the significance or credibility of the substance of a computerized piece of proof. In the new episode of the Delhi Young men Storage space case, for example, the police had previously captured the young men said to be involved before the legal report was given by the power; later, when the report uncovered that the young men captured were not the wrongdoers, yet rather, the young lady who had griped herself was liable for the entire episode. Subsequently, the police and policing should lead an intensive, proficient confirmation of the computerized proof prior to utilizing it to develop an at first sight case. Master check of current realities and conditions is important to decide the genuineness of the proof and its significance in the cases under the watchful eye of the court, which is valid for criminal cases as well as for common matters including shopper security, advanced agreements, and so on. The creator accepts there ought to be an outsider confirmation and check expert responsible for reviewing electronic/computerized proof, which would then give definite reports on whether the proof being referred to is certified (i.e., normally happening or misleadingly produced using suitable innovations like sound-and picture altering programming).

4.1. The Need for Additional Defenses

To additional rebate any control - basically for the reasons for expecting by all appearances validity of the verification of the electronic record - the Indian Proof Demonstration could be revised to add a condition that the record was a not a made in the customary way by a man get-together to the methodology and the protector of the record didn't

control the creation of the record. Segment 34 of the Indian Proof Demonstration determines the circumstances wherein an oral affirmation in regards to the items in electronic accounts is applicable. The gamble of losing ownership of the records would be radically decreased if it would be demonstrated that the record was made by a gathering with an opposing interest to the protector of the record and that the record was being utilized against the hostile party. Since the record had obviously been altered, it was contended, no unbiased party would need to affirm its realness. Under the Singapore Proof (Change) Demonstration of 1996, this is an extra expectation. Credit electronic records or keeps determining in the Financiers Books Proof Demonstration 1879, which was changed by the CBN Act 2007 and is presently viewed as allowable proof.

In France, for example, a bailiff's report is much of the time acknowledged as adequate verification of a specific truth. To guarantee the believability of the bailiff's true report, French regulation indicates various specialized prerequisites that he should meet prior to making any statements on properties.

The law should likewise imaginatively address the requirement for the promoter to give statement with respect to the maker of a report to decide if there was any control or change after the records were made, the steady nature of the PC program that delivered the records, and whether the records are finished. Under segment 3 of the Proof Demonstration, electronic records are perceived as substantial books of record 106. Since area 65B of the Proof Demonstration doesn't manage this chance, passes judgment on should be additional mindful to guarantee that material can be proficiently provided or changed. While imparting through email, for example, the source has the choice of amending the message prior to sending. Since the beneficiary is frequently ignorant about these adjustments, an unbiased outsider's assertion about the veracity of the record may not be adequate all of the time.

There have been serious worries brought up in the computerized world because of reckless activities, like information twisting and emulate, in regards to the veracity of information utilized as affirmation. It makes one wonder of how one could demonstrate that one gathering was answerable for making and sending electronic correspondence when that gathering's name as the maker of the post might have been embedded by anybody. Any important proof might be utilized to lay out under the UETA that an electronic record or mark is a demonstration of a particular individual, much as a paper of agreement. Maybe it would be suitable for the courts or the public authority to shape an extraordinary gathering of mechanized demonstrates aces who could help the courts and explicitly research the veracity of electronic information.

5. CONCLUSION

Computerized proof has been acknowledged as significant genuine proof by the courts, however there is a hole in the law in India in regards to the commencement of an examination against people by the policing in light of the basic creation of a visit or a picture, without confirming the importance or creativity of the substance of computerized proof to try and begin an at first sight instance of criminal nature. Obviously India actually has far to go before it gets up to speed to the other world as far as the challenges related with the confirmation and enthusiasm for electronic proof.

Indeed, even while the progressions were made to make things more straightforward for the individual contending for the arrival of reports, they are not without their downsides. We should understand that the law should determine the standards that should be complied with paying little mind to conditions in light of a legitimate concern for equity, value, and clean conscience, and for this reason the proposition of a regulation that requirements to remain significant for what's in store is so significant.

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