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## LEGAL IMPLICATIONS OF SOCIAL MEDIA EVIDENCE IN COURT

*Stuti Vineet*



### THE RISE OF SOCIAL MEDIA IN LITIGATION

In modern times, social media has found its way in all places – from chat rooms to court rooms. Platforms like WhatsApp, Facebook, Instagram, and X (formerly Twitter), are not just means of casual communication anymore, but the data shared on them are effective legal tools. Defamatory posts, abusive comments, and screenshots of messages – all are being presented in the court of law.<sup>1</sup> However, in an age where social media holds the power to influence young minds and shape opinions, is it plausible for its content to be admissible and reliable in Indian Courts?

### WHAT COUNTS AS SOCIAL MEDIA EVIDENCE?

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<sup>1</sup> *Social Media and Legal Investigation*, JUS CORPUS (Feb. 28, 2023), <https://www.juscorpus.com/social-media-and-legal-investigation/>.

There is plenty of content shared over social media that can be counted as evidence in the legal context. For instance – posts, comments, videos, private messages, audio recordings, along with the new introductions of content such as reels and stories, is often submitted as proof during trials. These can be corroborated by means of witness testimonies and expert opinions.<sup>2</sup> In a court of law, it is mostly presented in the metadata form, which can be timestamps, device information, URLs, and etc.<sup>3</sup> This is so because without metadata, the content alone might not be sufficient.

Most instances of social media content being used as evidence is seen in matrimonial disputes, where screenshots of private messages might be used for charges of infidelity or cruelty;<sup>4</sup> and in defamation or hate speech cases, where tweets or viral videos are introduced as evidence.<sup>5</sup>

### **ADMISSIBILITY UNDER INDIAN LAW**

Although the Information Technology Act, 2000, gives legal recognition to electronic records,<sup>6</sup> social media evidence in India is mainly governed by Section 65B of the Indian Evidence Act, 1872.

The manner of generation, originality, and integrity of all electronic data, including social media content, must satisfy the requirements under this section of the Act to be certified so as to be admissible as evidence.<sup>7</sup> This compliance with the Section 65B certificate was deemed mandatory by the Supreme Court in *Anvar P.V. v. P.K. Basheer*, holding that screenshots are not admissible unless accompanied by a certificate under Section 65B.<sup>8</sup>

Later, in *Tomaso Bruno v. State of UP*, the Court reaffirmed that electronic evidence like social media content must always be in its original and unaltered form for it to be reliable in court.<sup>9</sup>

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<sup>2</sup> *Impact of Social Media in the Law of Evidence*, LEGAL VIDHIYA (Aug. 7, 2023), <https://legalvidhiya.com/impact-of-social-media-in-the-law-of-evidence/>.

<sup>3</sup> *Social Media Evidence in Court*, NAEGELI DEPOSITION & TRIAL (June 12, 2022), <https://www.naegeliusa.com/blog/social-media-evidence-in-court>.

<sup>4</sup> *Divorce Case: Wife's WhatsApp Chats Can Be Valid Evidence About Her Extramarital Affair Even When Obtained Without Her Consent*, Rules High Court, ECONOMIC TIMES (Mar. 22, 2024), <https://economictimes.indiatimes.com/wealth/legal/will/divorce-case-wifes-whatsapp-chats-can-be-valid-evidence-about-her-extramarital-affair-even-when-obtained-without-her-consent-rules-high-court/articleshow/121926873.cms>.

<sup>5</sup> *Sued for Defamation on Social Media*, LLOYD L. C. BLOG (May 10, 2023), <https://www.lloydlawcollege.edu.in/blog/sued-for-defamation-social-media.html>.

<sup>6</sup> Information Technology Act, 2000, § 4, No. 21, Acts of Parliament, 2000 (India).

<sup>7</sup> Indian Evidence Act, 1872, § 65B, No. 1, Acts of Parliament, 1872 (India).

<sup>8</sup> *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473 (India).

<sup>9</sup> *Tomaso Bruno v. State of Uttar Pradesh*, (2015) 7 SCC 178 (India).

However, the Court has taken a more liberal stance in this context recently in 2020, stating that compliance with the certificate is only mandatory unless the original device is produced.<sup>10</sup>

## **CHALLENGES IN USING SOCIAL MEDIA AS EVIDENCE**

Despite being recognized by law, the use of social media content in Indian courts remains a matter of concern.

In this emerging technological age, we all know how easy it is to alter and edit electronic data. Therefore, authenticity remains of the major challenges with photos and videos being edited, and screenshots and deepfakes being manipulated with ease given the advanced tools present in the market currently. The original source of the content gets lost in this somewhere and cannot be verified.<sup>11</sup>

Privacy, however, is the biggest issue. In many cases, private data like messages and photos are obtained without consent of the individual. This poses the question if the fundamental right to privacy, covered under Article 21 of the Constitution,<sup>12</sup> can be comprised in the pursuit of justice.

For electronic data to be admissible in court, the chain of custody is also vital. The data must be in its original form and ideally be coupled with metadata and electronic chain of custody logs.<sup>13</sup> Other issues also remain, for example – lack of specialized training in digital forensics, the content can be hearsay and irrelevant, lack of knowledge on evolving technology that can shape regulatory guidelines.<sup>14</sup>

In addition to this, getting permits to obtain data from companies like Meta or Google requires adherence to foreign laws. This jurisdictional restriction slows the process and results in delay in justice.

## **WAY FORWARD AND SUGGESTIONS**

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<sup>10</sup> Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, AIR 2020 SC 4908 (India).

<sup>11</sup> Adeel Usmani, *The Admissibility of Electronic Evidence in Indian Courts*, JLRJS., <https://jlrjs.com/wp-content/uploads/2024/01/10.-Adeel-Usmani.pdf>.

<sup>12</sup> INDIA CONST. art. 21.

<sup>13</sup> Govind Bahadur Singh, *Admissibility of Electronic Evidence in Courts*, INT'L J. INNOVATIVE RES. TECH. (IJIRT), [https://ijirt.org/publishedpaper/IJIRT182683\\_PAPER.pdf](https://ijirt.org/publishedpaper/IJIRT182683_PAPER.pdf).

<sup>14</sup> *The Legal Status of Digital Evidence in Indian Courts: Challenges of Admissibility and Authentication*, LAWFUL LEGAL (July 2025), <https://lawfullegal.in/the-legal-status-of-digital-evidence-in-indian-courts-challenges-of-admissibility-and-authentication/>

The increasing use of social media warrants that the judiciary must align itself with the new world and prepare for the challenges listed above. Here are some measures for this –

- Enhance Judicial and Legal Training: Specialized training in areas like digital forensics and cybercrime should be made mandatory for judges, lawyers, and investigators.<sup>15</sup>
- Develop Clear Procedural Guidelines: The judiciary must introduce specific and comprehensive guidelines with regards to the manner of procurement, privacy, and authenticity of the electronic data admissible in court so that no room for doubt is left.<sup>16</sup>
- Leverage Technology Responsibly: Since, the modern technical tools can be manipulated so easily, the Indian judiciary has already taken steps to use blockchain technology for building tamper-proof verification systems, so the authenticity of data is not be compromised.<sup>17</sup>
- Balance Privacy and Evidence Needs: The judiciary must strive to strike a balance between when personal data as evidence is absolutely necessary for justice, and when the right to privacy established under the Puttaswamy judgement<sup>18</sup> has more weightage. Otherwise, there will always remain a conflict in this regard.

## CONCLUSION

The use of social media content as evidence is a significant and historical shift in the Indian judiciary, and is a testament to Indian law endeavouring to align itself with the advancing technologies of moder times. While such evidence offers valuable insight into case laws, its admissibility is still an issue facing multiple challenges. However, it is crucial that such a step be taken with care and due diligence, when its so easy for personal data to be hindered and unauthorisedly used for malignant purposes. Justice must be the goal, but the means to it must also be justified to a reasonable extent.

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<sup>16</sup> Primelegal Team, *Admissibility of Electronic Evidence with Special Reference to Instagram Chats*, PRIME LEGAL, <https://primelegal.in/admissibility-of-electronic-evidence-with-reference-to-instagram-chats/>

<sup>17</sup> *Artificially Intelligent Entities as Legal Persons: Navigating the Frontiers of Legal Personhood*, SUD&SUD (June 2025), <https://www.sudsud.in/post/artificially-intelligent-entities-as-legal-persons-navigating-the-frontiers-of-legal-personhood-in>

<sup>18</sup> K.S. Puttaswamy v. Union of India, AIR 2018 SC (SUPP) 1841.

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