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ADMISSIBILITY OF WHATSAPP CHATS AS ELECTRONIC EVIDENCE UNDER THE BHARATIYA SAKSHYA ADHINIYAM, 2023: AUTHENTICATION, CERTIFICATION AND JUDICIAL CHALLENGES

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I. INTRODUCTION

WhatsApp conversations have become a routine part of private and professional communication. It is therefore unsurprising that courts increasingly encounter screenshots, exported chats, photographs of screens and printouts of WhatsApp conversations. The difficulty begins when a party asks the court to treat such material as proof. A screenshot may show what appeared on a device, but it does not by itself answer who controlled the account, how the record was obtained, whether the conversation is complete, or whether the material was altered before it reached the court.

The Bharatiya Sakshya Adhiniyam, 2023 (BSA) came into force on 1 July 2024 and replaced the Indian Evidence Act, 1872. Its provisions dealing with electronic records are contained principally in Sections 61 to 63. Section 61 gives electronic or digital records legal effect subject to Section 63, while Section 62 directs that the contents of electronic records are to be proved in accordance with Section 63. Section 63 and its Schedule prescribe the conditions and certificate for the relevant computer outputs. ¹

This change is important for WhatsApp evidence because the new certificate is technically more detailed than the certificate under the former Section 65B of the Evidence Act. The Schedule requires, among other things, particulars of the device or digital source and the hash value of the electronic record. In *Pune Bar Association v. Union of India*, the Supreme Court considered a challenge to these requirements and held that the hash-value requirement has a rational connection with authenticity and integrity. ²

This article focuses on the narrower question of how WhatsApp chats should be approached under the BSA when authentication, certification and reliability are disputed. The central point is that these concepts should not be treated as identical. A certificate is part of the statutory route for proving a computer output, but it does not necessarily settle every factual question about the message itself.

II. WHY WHATSAPP CHATS RAISE A DISTINCT EVIDENTIARY PROBLEM

A WhatsApp conversation is not usually handed to a court in the same form in which it exists inside the application. A party may export a chat, take screenshots, print selected messages or copy

¹Bharatiya Sakshya Adhiniyam, No. 47 of 2023, §§ 61–63 & sched., India Code (2023).

²*Pune Bar Ass'n v. Union of India*, W.P. (C) No. 599 of 2026, Order (S.C. May 22, 2026), <https://indiankanoon.org/doc/5836207/>.

files from a mobile phone to another computer. Each step can create a gap between the original electronic record and the material ultimately placed before the court.

This matters because the evidentiary question is not simply whether the words appearing in the screenshot were once displayed on WhatsApp. The court may also have to consider whether the account belonged to the person alleged to have sent the message, whether the relevant phone was under that person's control, whether the conversation has been presented completely, and whether the record remained unchanged during extraction and transfer.

The earlier Supreme Court decisions under Section 65B provide the background. In *Anvar P.V. v. P.K. Basheer*, the Court held that secondary electronic evidence must satisfy the special statutory requirements governing electronic records.³ *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal* reaffirmed the importance of the certificate and explained its relationship with the proof of secondary electronic evidence.⁴ The BSA has replaced Section 65B with Section 63, but the underlying need for a specialised method of proving computer outputs remains.

III. SECTION 63 AND THE NEW CERTIFICATE

Section 63 is significant because it connects admissibility with the manner in which electronic information is produced. The Schedule to the provision requires the party to identify the source of the electronic record, provide relevant particulars of the device or digital source, and state the hash value obtained using the specified algorithm. The statutory form also requires declarations concerning the use and functioning of the device.⁵

For a WhatsApp conversation, these requirements can become practical difficulties. A person may know that a message appears in a WhatsApp account but may not know the IMEI number of the phone, the technical history of the device, or the hash value of the output. The statutory framework therefore places a greater emphasis on preservation and documentation of electronic evidence than a casual screenshot would suggest.

The Supreme Court's reasoning in *Pune Bar Association* helps explain why the legislature adopted this approach. The Court described a hash value as an electronic fingerprint and accepted that it assists in identifying and verifying digital data. It also treated expert certification as an additional layer of authenticity.⁶ The decision therefore shows that the technical details in the Schedule are connected to the evidentiary objective of preserving confidence in the record, rather than being merely formal paperwork.

IV. AUTHENTICATION IS NOT THE SAME AS CERTIFICATION

Authentication concerns whether the electronic record is what the party claims it to be. Certification, by contrast, concerns compliance with the statutory method of proving the relevant electronic output. The two questions overlap, but they are not interchangeable.

This distinction is particularly important in WhatsApp disputes. Suppose a party produces a properly certified printout of a conversation. The opposing party may still say that the phone number was not used by the alleged sender, that the account was accessible to someone else, that relevant messages have been omitted, or that the conversation was transferred from one device to another

³*Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473, 484–85.

⁴*Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1, 23–31.

before it was produced. A certificate may address the manner in which the output was produced without, by itself, resolving every factual dispute about the communication.

A recent decision illustrates this distinction. In *N. Mahesh v. G.N. Nanjundaswamy*, the court examined electronic material relied upon to establish the circulation of allegedly defamatory content. The court was concerned not merely with the existence of digital material but also with matters such as the absence of supporting platform records, the identity of the uploader and the lack of evidence establishing the alleged circulation.⁷ The case demonstrates why the court may have to examine the evidentiary foundation of digital material rather than treating a reference to WhatsApp as sufficient proof.

V. RECENT JUDICIAL APPROACH TO WHATSAPP EVIDENCE

Recent decisions show that courts are applying Section 63 in a practical way and that deficiencies in the statutory certificate can have direct consequences.

In *Shree Bankey Behari Fabrics Pvt. Ltd. v. Sunit Gupta*, the defendant relied on WhatsApp conversations and produced a certificate under Section 63. The court examined the certificate closely. It noted that the certificate identified the model of the mobile phone but did not contain several particulars contemplated by the Schedule, including the IMEI number, relevant hash value and particulars of the computer and printer used for producing the printouts. The court held that the electronic evidence did not comply with Section 63(4) read with the Schedule and was not admissible.⁸

The decision is useful because it shows that a party cannot necessarily cure every defect merely by describing the WhatsApp conversation as a true copy. The court looked at the statutory particulars and the evidentiary trail behind the printouts.

In *M/s SMG Interiors & Ors. v. M/s Oravel Stays Pvt. Ltd. (OYO)*, the plaintiffs' commercial claim relied substantially on printouts of emails and WhatsApp conversations. The defendants objected to the electronic material on the ground that the required certificate had not been produced. The court held that the electronic material was not proved in accordance with Section 63(4) BSA and could not be relied upon as proved electronic evidence.⁹ The case demonstrates the practical consequence of treating certification as a threshold issue in ordinary civil litigation.

The procedural setting can nevertheless matter. In *Ravishankar Yadav v. Neha Kumari*, the Jharkhand High Court considered WhatsApp material in a matrimonial dispute and discussed the operation of Section 63 alongside the special evidentiary setting of Family Courts.¹⁰ Similarly, the Bombay High Court's decision in *Urvinder Singh Pal v. Deputy Registrar, Co-operative Societies* illustrates that objections to WhatsApp communications have to be considered in the context in which the material was produced and challenged.¹¹ These cases suggest that courts should avoid treating every electronic record dispute as identical.

VI. THE ROLE OF HASH VALUES AND DIGITAL INTEGRITY

The introduction of hash values is one of the most noticeable technical features of the BSA's electronic-evidence framework. A hash value is generated from digital data and can be used to compare whether the data presented later corresponds to the data from which the hash was

⁷*N. Mahesh v. G.N. Nanjundaswamy*, C.C. No. 29859/2025 (Karnataka trial court Aug. 14, 2026), <https://indiankanoon.org/doc/20018749/>.

⁸*Shree Bankey Behari Fabrics Pvt. Ltd. v. Sunit Gupta*, CS (Comm.) No. 301/2025 (Delhi Dist. Ct. July 10, 2026), <https://indiankanoon.org/doc/97690301/>.

⁹*M/s SMG Interiors & Ors. v. M/s Oravel Stays Pvt. Ltd. (OYO)*, CS (COMM) 145/2019 (Delhi Dist. Ct. Feb. 23, 2026), <https://indiankanoon.org/doc/163250941/>.

¹⁰*Ravishankar Yadav v. Neha Kumari*, No. 58 of 2022 (Jharkhand H.C. June 25, 2025).

¹¹*Urvinder Singh Pal v. Deputy Registrar, Co-operative Societies* (Bom. H.C. Oct. 6, 2025).

generated. This gives the court a technical means of examining integrity rather than relying entirely on a person's statement that a file has not been changed.

For WhatsApp evidence, this is potentially useful because digital conversations can be copied, exported, photographed or transferred between devices. The more times an electronic record moves between systems, the more important it becomes to document what was copied and when. The statutory certificate therefore encourages parties to preserve a traceable evidentiary chain.

At the same time, a hash value does not answer every question about a WhatsApp conversation. It may assist in showing that a particular digital output has remained unchanged after hashing, but it does not by itself prove who authored a message, who controlled the phone or whether the underlying conversation is complete. These questions may require other evidence. The distinction reinforces the need to treat integrity, authenticity and authorship as related but separate inquiries.

VII. PRACTICAL CHALLENGES FOR LITIGANTS AND COURTS

The BSA framework creates a practical challenge for ordinary litigants because most people use WhatsApp without maintaining formal digital-evidence records. A person may preserve an important conversation for months without recording the device particulars or generating a hash value. When litigation begins later, reconstructing the technical history of the record may be difficult.

Courts may therefore encounter a tension between formal compliance and the everyday manner in which digital communications are created. This does not mean that statutory requirements should simply be ignored. Rather, it highlights the importance of obtaining and preserving electronic evidence carefully when a dispute is reasonably foreseeable.

For lawyers, the practical lesson is straightforward. If a WhatsApp conversation is likely to become important evidence, counsel should consider preserving the original device or source, avoiding unnecessary transfers, maintaining the complete conversation where possible, documenting the method of extraction, and preparing the Section 63 certificate with the required particulars. The objective should be to create an evidentiary trail that another party can test.

The courts, on the other hand, must distinguish between a defect that goes to the statutory admissibility of a computer output and a dispute that concerns the weight or authenticity of the evidence after it has entered the record. A structured approach would reduce the risk of treating every WhatsApp screenshot as either automatically reliable or automatically useless.

VIII. CRITICAL ANALYSIS

The post-BSA position shows that the legal question surrounding WhatsApp chats has moved beyond the old debate over whether a Section 65B certificate is required. Section 63 continues the requirement of a statutory certificate, but the Schedule now introduces more detailed technical information. This makes the evidentiary process more closely connected with the actual digital source.

In my view, the most important issue is the distinction between a certificate and proof of the communication itself. A certificate should establish the statutory foundation for the computer output, but the court should remain free to examine the circumstances in which the communication was created, stored, extracted and presented. Otherwise, certification could be mistaken for a conclusive finding on authorship or truth.

The recent cases support this distinction in different ways. *Shree Bankey Behari Fabrics* demonstrates the consequences of incomplete certification. *12 SMG Interiors* demonstrates the importance of complying with the statutory gateway when the electronic record forms a substantial

part of the claim. 13 Pune Bar Association explains the legislative rationale for hash values and expert certification. 14 These authorities together indicate that the BSA is attempting to strengthen the reliability of digital evidence through a combination of legal and technical safeguards.

The remaining challenge is practical accessibility. A sophisticated litigant may have access to forensic assistance and detailed device records, whereas an ordinary individual may only have a mobile phone and a WhatsApp conversation. The effectiveness of Section 63 will therefore depend not only on the wording of the statute but also on how courts apply the requirements proportionately and consistently to the facts of each case.

IX. CONCLUSION

WhatsApp chats are likely to remain an important form of electronic evidence in Indian litigation. Under the Bharatiya Sakshya Adhiniyam, 2023, their treatment is governed principally by Sections 61 to 63, with the Schedule prescribing detailed requirements for the certificate accompanying relevant electronic outputs. 15

The present framework makes three ideas especially important: admissibility, authentication and integrity. Certification addresses the statutory route for proving the electronic output. Authentication concerns whether the record is what the party claims it to be. Integrity concerns whether the record has remained unchanged or whether its digital characteristics can be verified. These questions may overlap, but one should not automatically be treated as proof of the others.

The recent judicial decisions show that courts are beginning to engage with the technical realities of WhatsApp evidence. The result is a more demanding evidentiary environment in which screenshots and printouts should be accompanied by a clear explanation of their source and statutory foundation. For litigants and lawyers, careful preservation at the earliest stage is therefore likely to be as important as the eventual presentation of the evidence in court.

The BSA has provided a more detailed framework for electronic evidence, but the ultimate success of that framework will depend on its practical application. WhatsApp evidence should neither be accepted merely because it looks genuine nor rejected merely because it is digital. The better approach is to examine its statutory compliance, source, integrity and surrounding evidence before determining what weight it deserves.
