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PUNE BAR ASSOCIATION v. UNION OF INDIA

Lakshya Pratap Singh

Case Details: Writ Petition (Civil) No. 599 of 2026, Supreme Court of India, decided on 28 May 2026.

Bench: Chief Justice Surya Kant, Justice Joymalya Bagchi and Justice Vipul M. Pancholi.

Neutral Citation: 2026 LiveLaw (SC) 551.

Introduction:

This case raised an issue which has become a hot topic in the Indian courtroom in the era of digital evidence which has increasingly become a part of the scene in the judiciary. It questioned whether Section 63(4) of Bharatiya Sakshya Adhiniyam, 2023 (the new section to replace the previous Section 65B of the Evidence Act) imposes an undue burden on common litigants who wish to use electronic records. The answer and reasoning of the Supreme Court have implications for anyone handling digital evidence in the future.

Facts:

Pune Bar Association filed a writ petition challenging Section 63(4), along with its Schedule, in the BSA.¹ Under this provision, if a party wished to produce an electronic record in evidence, it would be required to produce a certificate containing two parts. First, Part A requires a declaration of the hash value of the information contained in the record. This part is considered a unique digital record, thereby providing proof, to the satisfaction of the judge, that the digital record was not tampered with during the use of the electronic record. Second, Part B shall be

¹ The Bharatiya Sakshya Adhiniyam, 2023, § 63(4), No. 47, Acts of Parliament, 2023 (India).

in the form of a certification by an expert, certifying that the record is a printout of the record itself. Part B is in a prescribed format.

Issues:

There were two questions that were of particular interest:

- First, was Section 63(4) and its Schedule constitutionally valid, or was it putting an unreasonable burden on litigants seeking to present electronic evidence?
- Secondly, who is qualified to sign Part B of the certificate? Does Section 79A of the Information Technology Act only apply to those who have received formal notice, or is it applicable in a broader sense?

Arguments by the Parties:

The Petitioner stated that the twin prerequisites of such disclosure and expert certification make it nearly impossible for a regular person to meet the standard, particularly when the number of expert witnesses in our nation is minuscule. Along these lines, this makes it an absolute impossibility. The Union of India argued that although imposing documentary requirements is a good idea, in case of electronic evidence, we have to at least be requirement of certification. Electronic records are far more susceptible to tampering and manipulation than manual records. With the growing use of artificial intelligence and deep fakes, the chances of fake evidence increase drastically.

Judgment:

Section 63(4) of the Indian Evidence Act was also upheld by the Supreme Court as constitutionally valid. The hash value, the Court said, acts as a digital fingerprint and can provide a reliable method of demonstrating that a record was not tampered with. As it is clear that Indian law protects the authenticity of an electronic record, if it can be believed to serve a purpose, it has a rational connection to the object of the law and cannot be called arbitrary.

On the second issue, the Court adopted a somewhat liberal approach to the question of who can sign Part B of the Certificate. It held that, on a combined reading of Sections 39(1) and 39(2) of the BSA with Section 79A of the IT Act, an expert (i.e., a person with genuine special skill or expertise in the field of computer science and cyber forensics) can be any expert and

need not be one notified under Section 79A of the Indian Evidence Act, 1872. If such an expert has been examined and cross-examined, and the court has no doubt about their credentials based on solid, unimpeachable materials, the said person should be allowed to sign it. In that view, the Supreme Court also added that the previous judgment of the Madras High Court² was not a binding opinion. The Madras High Court had a very different opinion from the further approach to it.

Critical Analysis:

Before going further, it is worth remembering exactly what the Supreme Court upheld with its Section 63(4) judgement. The Court said that providing the hash value disclosure requirement is rationally connected to proving authenticity, it does not violate Article 14. The issue before the Court was solely about whether a record was altered after being created. It did not involve questioning the authenticity of the information when it was originally recorded. Showing a hash value confirms that no one altered the recorded information after the point of creation. It does not prove that the information being recorded was true. So the Court has settled the validity of a procedure for proving that information has not been tampered with. The question of trusting the underlying information still hangs.

The Court has admirably expanded the class of persons who can attest to Part B of the certificate. Permitting any person who can demonstrate knowledge in the fields of computer science and cyber forensics to certify a record, instead of limiting certification to persons who have been notified under Section 79A, is a pragmatic response to a genuine issue – there are not enough notified examiners in India to go around. This amendment benefits ordinary litigants by opening up the process of certification. However, this amendment only expands who can certify a record. It does not expand what certification of a record proves. Even an expert selected from this expanded class can only certify the technological authenticity of a record, and not the veracity of the contents of the record.

The flexibility, which the Court demonstrated in deviating from the more rigid view of the Madras High Court, is not without its costs, however. There is no definitive test or check list for when someone is a "special skill and expertise" in this area. That's a question which remains for the trial court to determine on the basis of the material on which it acts. This might be a legitimate method for the apparent shortage of notified experts, but might result in varying

² R. v. B & Anr., 2024 SCC OnLine Mad 6084.

standards being applied in similar cases across different courts. This poses a valid question as to whether there's any compromise in consistency and predictability in this increased accessibility.

Also, it is important to place this ruling in the context of previous rulings. In *Anvar P.V. v. P.K. Basheer*³ and subsequently, in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*⁴, the Supreme Court had already laid down the rule that for admittance of electronic evidence, a certificate under the earlier Section 65B(4) was a prerequisite. The position is not different from that of *Pune Bar Association*. Rather, it follows the same reasoning as the underlying argument in settled law, but on a more specific plane, as the certificate now needs to be in two parts under the BSA.

Last but not least, viewed from a broader perspective, this is not an exclusive Indian approach. There are also similar certification requirements in the United States Federal Rules of Evidence Rule 902⁵ and the European Union (EU) eIDAS 2.0. Regulations⁶, which are also based on integrity, not truthfulness, of a record. This indicates that the restriction found here is not peculiar to the Indian law but is common to the electronic evidence regimes of other countries.

Conclusion:

India's courts will see a determined legal framework for how digital and electronic evidence will be treated. Through its firmness on the hash value and certification requirement as per Section 63(4), the Court ensured the authenticity of digital records. The decision also gives a more adaptive interpretation of who counts as a professional and reflects an intelligent person's understanding of the troubles which the complainants and defendants face. Although what the decision leaves unsettled is as important as what is established, ensuring that the record is unchanged in no way indicates that the record was never false information and that this "gap" in the law is left open for the future.

³ *Anvar P.V. v. P.K. Basheer*, (2014) 10 S.C.C. 473 (India).

⁴ *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 S.C.C. 1

⁵ Fed. R. Evid. 902(13) – (14)

⁶ Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 Amending Regulation (EU) No 910/2014 (eIDAS 2.0), 2024 O.J. (L) 1183.