

electronic record inadmissible, nonetheless, it is procedural dealing with the mode and manner of proof. Any objection as to its admissibility has, therefore, to be raised at the time when such evidence is sought to be tendered. However, if such secondary evidence is permitted to be tendered without any objection, the demand for compliance of the conditions in sub-section (4) of Section 65-B is deemed to have been waived, as has been considered in the case of *Tomaso Bruno*¹. Such objection cannot subsequently be entertained by the Court to deprive the party tendering such evidence, an opportunity to rectify the defects or the deficiencies. Therefore, the question as to whether the provision of sub-section (4) of Section 65-B of the Evidence Act is attracted or not, will have to be decided in the facts and circumstances of each case and the Court can relax such requirement whenever interest of justice so requires or justifies.

Significant aspects to be noted in respect of electronic evidence produced:

Most significant aspects in respect of the electronic evidence produced on record. It was not the objection raised that the CCTV system installed in the said Bar was neither functioning at the time of incident nor did record the incident of murder of Jitu Gawande. It was also not the objection raised that the Hard Disk was tampered or contained something other than what was recorded by the cameras in operation connected to it. It was neither the objection raised nor was there any cross-examination suggesting that the CD 'X' in question does not contain images of the footages contained in the Hard Disk or that it is not a true copy of footages contained in three cameras recorded in the Hard Disk. It was also not an objection that DVD at Article 18A is not the true copy of the Hard Disk. It was also not the objection raised before the Court that the witnesses should be shown the CCTV footages from the primary evidence of Hard Disk produced on record. W- 14 Shubham, who prepared CD-'X', and W-19 Puja, who prepared DVD-Article 18A, have deposed that they have copied it from the Hard Disk. There is no challenge to this version of independent witnesses, which is not tested in the cross-examination, as required by Section 155² of the Evidence Act; impeaching

1. *Tomaso Bruno vs. State of U.P.* MANU/SC/0057/2015

2. **Indian Evidence Act, 1872**

155. Impeaching credit of witness

The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:-

(1) by the evidence of persons who testify that they, from their knowledge of the witness believe him to be unworthy of credit;

(2) by proof that the witness has been bribed, or has received [the offer of a bribe, or has received any other corrupt inducement to give his evidence;

(3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;

(4) When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

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CASE-5

Any electronic data which is printed on a paper, stored, recorded or copied in optical or magnetic image produced by a computer shall be deemed to be a document¹

Facts in Nutshell:

Appeals² were directed against the judgment and order of the Additional Sessions Judge, 2nd Court, Alipore in Sessions Trial No. 1(6)05 corresponds to Sessions case No. 65(1) of 2003 which was decided on 20th May, 2009. The Sessions Court convicted³ the appellants⁴ for offences punishable under Sections 34A⁵, 120B⁶ of the IPC. They have been sentenced to suffer imprisonment for

1. Appellants: Abdul Rahaman Kunji Vs. Respondent: The State of West Bengal
Hon'ble Judges/Coram: Nishita Mhatre and Tapash Mookherjee, JJ., High Court of Calcutta
MANU/WB/0828/2014,
(2015)1CALLT318(HC),
2016CriLJ1159
Decided On: 14.11.2014
Subject: Criminal Law

2. Meaning of appeal:

- a. A higher court's review of the correctness of a decision by a lower court.
- b. A case so reviewed.
- c. A request for a higher court to review the decision of a lower court.

3. Meaning of convict:

To find or prove (someone) guilty of an offence or crime, especially by the verdict of a court

4. Meaning of appellant:

A person who appeals a court decision

5. Section 364A in The Indian Penal Code

364A. Kidnapping for ransom, etc.—Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organisation or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.

6. Section 120B in The Indian Penal Code

120B. Punishment of criminal conspiracy.—

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

CASE-7

Admissibility of computer generated evidence¹

Facts in Nutshell:

Appeals² were directed against the judgment dated 30.4.2011 rendered by the learned Sessions Judge (Special Judge), Shimla, in Sessions Trial No. 13-S/7 of 2003, whereby the appellants³/accused⁴, Maya Ram and Sunita Gupta were convicted⁵ under Sections 409⁶, 477⁷, 477-A⁸,

1. Appellants: Maya Ram and Ors. Vs. Respondent: Central Bureau of Investigation
Hon'ble Judges/Coram: Rajiv Sharma, Judge, High Court of Himachal Pradesh at Shimla
Decided On: 25.04.2014, MANU/HP/1461/2014
Subject: Criminal Law
2. **Meaning of appeal:**
 - a. A higher court's review of the correctness of a decision by a lower court.
 - b. A case so reviewed.
 - c. A request for a higher court to review the decision of a lower court.
3. **Meaning of appellant:**
A person who appeals a court decision
4. **Meaning of accused:**
The defendant in a criminal case.
5. **Meaning of convict:**
To find or prove (someone) guilty of an offence or crime, especially by the verdict of a court
6. **Section 409 in The Indian Penal Code**
409. Criminal breach of trust by public servant, or by banker, merchant or agent.—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
7. **Section 477 in The Indian Penal Code**
477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.—Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such documents, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
8. **Section 477A in The Indian Penal Code**
477A. Falsification of accounts.—Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, electronic record, paper, writing, valuable security or

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CASE-14
**Admissibility of the Call Detail
Records at the appellate stage¹**

Facts in Nutshell:

The Appellants² in the appeals³ along with Dharmender @ Bunty were found guilty of abduction⁴ and murder of Ramesh Jain. They were convicted⁵ and sentenced for life imprisonment. Their conviction and sentence was confirmed by the High Court. Accused⁶ Dharmender @ Bunty did not file an appeal before Supreme Court. Accused Rampal was convicted Under Section 328⁷ read with 201⁸ Indian Penal Code and was sentenced to 7 years

1. Appellants: Sonu Vs. Respondent: State of Haryana
Hon'ble Judges/Coram: S.A. Bobde and L. Nageswara Rao, JJ., Supreme Court of India
Decided On: 18.07.2017, MANU/SC/0835/2017, AIR 2017 SC 3441, 2017 (101) ACC 929
Subject: Evidence Law
2. **Meaning of Appellant:**
A person who appeals a court decision
3. **Meaning of appeal:**
 - a. A higher court's review of the correctness of a decision by a lower court.
 - b. A case so reviewed.
 - c. A request for a higher court to review the decision of a lower court.
4. **Meaning of abduction:**
The act of taking someone away by force or cunning; kidnapping
5. **Meaning of convict:**
To find or prove (someone) guilty of an offence or crime, especially by the verdict of a court
6. **Meaning of accused:**
The defendant in a criminal case.
7. **Section 328 in The Indian Penal Code**
328. Causing hurt by means of poison, etc., with intent to commit an offence.—Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
8. **Section 201 in The Indian Penal Code**
201. **Causing disappearance of evidence of offence, or giving false information to screen offender.**—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life.—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years,

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CASE-18

Recorded conversation cannot be admissible in evidence and expert cannot be asked to compare CDs which conversation has been denied¹

Facts in Nutshell:

Writ petition² filed by the petitioner³, **Vishal Kaushik**, challenging order dated 26.07.2013, whereby seven applications filed by him were dismissed by Family Court, Ajmer (for short 'the Family Court').

Brief Facts:

The facts of the case are that the petitioner filed a divorce petition⁴ under Section 13⁵ of the Hindu Marriage Act, 1955 before the Family Court, Haridwar

1. Appellants: **Vishal Kaushik Vs. Respondent: Family Court and Ors.**

Hon'ble Judges/Coram: Mohammad Rafiq, Judge, High Court of Rajasthan, Jaipur Bench
Counsels:

For Appellant/Petitioner/Plaintiff: Peush Nag

Subject: Evidence Law

MANU/RH/0886/2015, On: 26.05.2015: AIR2015Raj146: 2016(3)CDR1416(Raj): Decided

2. A writ is a formal written order issued by a Court. Any warrant, orders, directions, and so on, issued by the Supreme Court or the High court are called writs.

A writ petition can be filed in the High Court (Article 226) or the Supreme Court (Article 32) of India when any of your fundamental rights are violated. The jurisdiction with the High Courts (Article 226) with regards to a writ petition is wider and extends to constitutional rights too.

3. **Meaning of Petitioner:**

A person who presents a petition

4. **Meaning of petition:**

A formal written application seeking a court's intervention and action on a matter

5. **Section 13 in The Hindu Marriage Act, 1955**

13 Divorce. —

(1) Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party—

16 [(i) has, after the solemnisation of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or]

16 [(ia) has, after the solemnisation of the marriage, treated the petitioner with cruelty; or]

16 [(ib) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or]

(ii) has ceased to be a Hindu by conversion to another religion; or

17 [(iii) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.

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