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ROLE AND IMPACT OF SOCIAL MEDIA IN EVIDENCE LAW

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ABSTRACT

As in the modern era, social media plays a crucial role in our day-to-day life. It cannot be separated from our life and we too can't live without technology. The well-known fact is that law is dynamic and flexible towards society and its members i.e., citizens. By remembering this, the courts also interpret the law according to society and its changes. In this world filled with various and drastic technology, the court accepts and permits to use the of social media platform as evidence. This article clearly explains the admissibility, on which grounds it is accepted by the court, and various judgments were passed related to social media.

Keywords – social media, electronic device, evidence, social platforms, admissible in court

INTRODUCTION

As the world is deepening into the mystery of AI and the growth of technology, the state should look into the transparency of the results. In the ever-growing and fast-moving world, every single person is using social media and logging into various accounts on social media such as Facebook, Twitter, Instagram etc., as these serve as the easiest mode of communication, which helps in transmitting or transferring the message or information from one place to other side are now made possible within a fraction of seconds. Social media are outstanding in numerous ways. As there are two sides to the coin, it also has both pros and cons. It affects the people because people are started to use it for abuse and some misused their accounts on social media it has also been a part of the judiciary system as a key tool and essential element of justice.

SOCIAL MEDIA EVIDENCE

Social media evidence is taken into consideration in court as valid proof and evidence. As society changes from time to time law also tends to change according to the changes of the society.

- Facebook chats

In the *case of Largent v. Reed*, the court determined that there was no confidential social networking and should not expect privacy in material posted on Facebook.

- WhatsApp

The use of online media or social media as a mode of easy way of communication. WhatsApp messages or chats and images can be considered as evidence in court, it may be civil or criminal. Numerous rules or conditions must be followed in the case of WhatsApp evidence in India, and these are permissibility as a traditional [conventional] document. Some essentials are to be satisfied to accept as evidence in the court as follows:

- The receiver or recipient should receive the message.
- Phone should be on a normal basis.
- The sender should have the intention to send the message.

In the case of *Girwar Singh v. CBI*, the court observed by assessing the entire details can conclude that the appellants raised a demand for illegal gratification.

VALUE OF SOCIAL MEDIA AS EVIDENCE

The value of social media posts as evidence is explained in criminal procedure. Specifically, there are merits and favourable policy causes for accessing social media. Section 69 of the Information Technology (IT) Act, 2000 states that;

“Where the central government or a state government or any of its officers specially authorized by the central government or the state government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the state, friendly relations with foreign states or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded on writing, by order, direct any agency of the appropriate government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted generated, transmitted, received or stored in any computer resource.”

The electronic device has turned in court predictable and honest previous records into consideration to stand by the principles of a good conscience, equity and justice. The evidence which is obtained from social media is applied in two ways or manner:

- Discovery of past messages and social media.
- The admissibility of materials in the trails.

LANDMARK JUDGMENTS

1. In the case of **Romano v. Steelcase Inc.**, the supreme court of New York structured and permitted the defendant to access the social media accounts, deleted pages of the plaintiff and as well as other information regarding the same. The court held that producing her

social media account, posts related to the plaintiff does not violate her right to privacy and the court order is valid.

2. In the case of **Zimmerman v. Weis Markets**, the court permitted to the discovery of the images from the social networking site where the source contains information ascertaining the mental and physical state.
3. In **Abdul Rahman Kunji v. State of West Bengal**, the high court of Calcutta stated that an email was downloaded and printed. testimony of a witness to carry out such procedure to download and is sufficient to prove.
4. In **Bhim Rathke v. Mr R. K. Sharma** case, the court dismissed the application of complaint sent through WhatsApp. The reason for rejection was court system does not support service through electronic mode. Despite exceptional cases, the court can use electronic devices or sources as a medium for the summons.
5. In the case **Anvar P.V. v. P. K. Basheer**, the supreme court held that an electronic record as a secondary source of evidence shall not be permitted or accepted as evidence unless it satisfies section 65B.
6. In **Shafi Mohammad v. State of Himachal Pradesh** case, is considered one of the conspicuous cases which pointed to an interpretation of electronic devices.
7. In the case of **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and others**, the electronic evidence will not be regarded or considered as evidence under section 65B of the act, if any parties fail to produce without a certificate.

ADMISSIBILITY

According to the Indian evidence act, 1872 section 65B states the admissibility of electronic records as:

“Notwithstanding anything contained in this act, any information contained in an electronic record which printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be also a document, if the conditions mentioned in this section are satisfied with the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.”

The recent year numerous courts in the country accept and approved when it comes to admissible electronic evidence. Courts have laid down some conditions in the case of *Ram Singh & Ors v. Col. Ram Singh*

- a) The recording voice of the speaker must be identified i.e., that should be recognized by the people who were recording.
- b) The whole sum of the conversation must be presented before the court of law. Tampering or erasing or altering will not be admissible.
- c) The statement should be relevant to the facts of the case.
- d) The recorded evidence should be sealed and kept in safe custody.
- e) Voice of the speaker must be clear.

CHALLENGES RELATING SOCIAL MEDIA AS EVIDENCE

As it serves as evidence which provides justice through social media. It also has challenges regarding the same.

❖ Document accuracy:

The accuracy of the document may not be the same and original as it is. Anything can be altered and easily changed. By this, the originality of the material may turn into fake and it's against the justice for the victim when the judiciary follows the same.

❖ Social media sites:

Any individual can hold an account on various platforms such as Facebook, Twitter, WhatsApp, Instagram, LinkedIn and so on, the court applies various standards for verification of the details and materials related or regarded to the case because multiple and numerous accounts are created by a single person, and there are high chances of fake accounts, it leads to more burden to the system of judiciary. It prolongs the case and delays justice.

❖ Difficulty of physical evidence

It is more difficult to provide evidence of physical existence. It creates a gap between primary and secondary evidence. If a Word document or pdf is considered the original and the printout of the same is regarded as a secondary source of evidence. As a result, it becomes to produce it without printers.

CONCLUSION

The impact of social media evidence is inevitable as well as does not underestimate on any grounds. It fails in certain occasions only except that it plays a major and pre-dominant role in evidence law. As is obtained, social media postings and messages (communications) are quite interesting and useful in the system of the judiciary in deciding the case and ensuring justice for society. In the same way, it is difficult to ascertain whether it is a boon or bane as it has two sides it may be either of it, wholly depending upon the circumstances and facts of the case and it may vary from case to case. The impact of social media in evidence law is unpredictable and in the same way positive too.

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