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ELECTRONIC EVIDENCE CERTIFICATE UNDER THE EVIDENCE ACT¹

The High Court of Rajasthan (“HC”), in *Shwetabh Singhal’s* case,² ruled on the admissibility of electronic evidence.

Brief Facts.

- Petition was filed by Shwetabh Singhal against J.K. and sons, through Rajendra Kumar Johri challenging an order of the Rent Tribunal in a case under the Rajasthan Rent Control Act, 2001.
- Electronic evidence in question (*i.e.*, video recordings) was originally captured in the device of one Rajat Sancheti. Subsequently, this video was transferred from his device to the device of Johri. Subsequently, Johri produced the pen drive and compact disc (CD) on the record of the Tribunal, along with certificate under Section 65-B of Indian Evidence Act, 1872 (IEA) issued by himself (*i.e.*, Johri).
- Singhal challenged this, arguing that the certificate was invalid as it was issued by the person to whom the recording was merely transferred, and not the person whose device performed the original recording.

Question of Law.

Whether the certificate under Section 65B must be submitted by the person in whose device the original video was recorded, or the person in whose device the material was subsequently transferred to?

HC’s Judgment & Reasoning.

The HC:

- Referred to the case of *Anwar P.V. v. P.K. Basbeer*³ wherein the Supreme Court (SC) expressly held that the certificate must be personally signed by the person who was occupying the relevant device.
- Reiterated that Section 65B(4) of IEA, which permits a statement pertaining to an electronic record to be given in evidence, can be accepted provided several conditions are met, including:
 - The certificate must identify the electronic record containing the statement.
 - The certificate must describe the manner in which the electronic record was produced.

¹ Equivalent Section (63)4 of Bhartiya Sakshya Adhiniyam (BSA), 2023.

² *Shwetabh Singhal vs. J.K. and Sons, through Rajendra Kumar Johri and Others*, 2025 SCC OnLine Raj 4870.

³ 2014 SCC Online SC 732.

- The certificate must furnish the particulars of the device involved in the production of that record.
- The certificate must deal with the applicable conditions mentioned under Section 65B(2) of the IEA.
- Crucially, the certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.
- Drawing on the precedents set in *Anwar P.V.* and further reiterated in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*,⁴ the HC:
 - Held that the certificate issued by Johri was not valid, as the video was not originally recorded in his device.
 - Further held that certificate of Sancheti, in whose device the video was originally recorded, was required to be produced before the court.
 - Recalled the instruction from SC that where a requisite certificate is missing or defective, the Judge conducting the trial must summon the person/persons referred to in Section 65B(4) of IEA and require them to submit the necessary certificate.
 - Held that since the electronic evidence was available on the record, the certificate of Sancheti under Section 65-B of IEA must be submitted.

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⁴ (2020) 7 SCC 1.