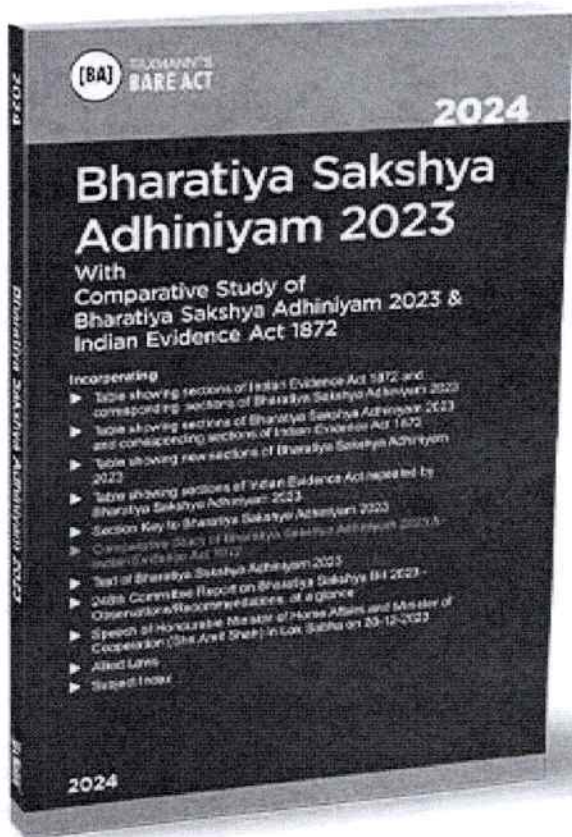


**DIVISIONAL JUDICIAL SEMINAR**  
**BASTAR DIVISION DATE – 13/04/2024 (SATURDAY)**  
**PRESENTATION ON**  
**INTRODUCTION AND CHANGES IN**  
**THE BHARATIYA SAKSHYA ADHINIYAM, 2023**



**BY**  
**DISTRICT AND SESSIONS COURT KONDAGAON**  
**DISTRICT – KONDAGAON (C.G.)**

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## **INTRODUCTION AND CHANGES IN THE BHARATIYA SAKSHYA ADHINIYAM, 2023**

### **Introduction**

In India, enacting and adopting the Indian Evidence Act, 1872 was a mold-breaking concept in the criminal justice system, changing the entire system regarding the admissibility of evidence in the Indian Courts of law. The law came into force, at a time when India was a part of the British Empire, on September 01, 1872.

The Indian Evidence Act of 1872, is a law that plays a significant role in determining the concept of admissibility of evidence in the Courts. Over the years, the Act underwent amendments in years 2000 and 2013 to align with the contemporary needs of the people. Moreover, multiple suggestions for the IEA were mentioned by the Law Commission on matters including admissibility of police confessions, custodial violence, government privilege in evidence, and cross-examination. To improve the justice delivery system, the Minister of Home Affairs on August 11, 2023, introduced the Bharatiya Sakshya Bill, 2023 in the Lok Sabha. The same was withdrawn on December 12, 2023, and consecutively, the Bharatiya Sakshya (Second) Bill, 2023, was introduced in the Lok Sabha on 12 December 2023. Further, the Bharatiya Sakshya (Second) Bill, 2023, was passed in the Lok Sabha on December 20, 2023. Following this, the Bharatiya Sakshya (Second) Bill, 2023, was introduced in the Rajya Sabha on December 21, 2023, and was passed on the same day. Furthermore, on December 25, 2023, the bill received the assent of the President of India, After receiving the assent, the bill becomes an Act known as Bharatiya Sakshya Adhinyam, 2023. it shall come into force on 1<sup>st</sup> july 2024.

### **Salient features of Bharatiya Sakshya Adhinyam, 2023**

- Object of this Adhinyam to consolidate and to provide for General Rules and Principles of Evidence for Fair Trial.
- To repeal and replace the existing Indian Evidence Act, a colonial legislation, passed in the year 1872.
- The Bharatiya Sakshya Adhinyam, 2023 hereinafter referred to as the BSA 2023, focuses primary on the procedural aspect of the Law,

governing the rights by which they may be enforced before a court of law.

- To provide the Fundamentals of a fair trial qua the examination of witnesses through electronics modes including digital evidence i.e. video conferencing etc. and forms a basic aspect of ensuring every citizen a fair trial/hearing i.e a component of Audi Alteram Partem as a Principle of Natural justice.

### **Brief Introduction regarding the Bharatiya Sakshya Adhiniyam, 2023 :**

- The Indian Evidence Act, 1872 contained 3 Parts and 11 chapters.
- The Bharatiya Sakshya Adhiniyam, 2023, contains 4 parts, 12 chapters and a Schedule.
- The Indian Evidence Act had a total of 167 sections, whereas the Bharatiya Sakshya Adhiniyam, 2023 contains 170 sections.
- The Bharatiya Sakshya Adhiniyam, 2023 now containing four parts: -
  - Part-I is Preliminary Clauses of the Act which is the Short title of the Act and Definition clause as Chapter 1. This is the only additional Part in the Act, implying that the remaining three parts are the same as before except now differently numbered. (Section 1 to 2)
  - Part-II is 'Relevancy of Facts- containing Chapter 2. (Section 3 to 50)
  - Part III of the Act is 'On Proof-containing Chapters 3 to 6. (Sections 51 to 103)
  - Part IV is "Production and Effect of Evidence" containing Chapters 7 to 12. (Sections 104 to 170)

### **The changes in Part-I are as under: -**

- Amending definitions of important terms such as Document U/s 2(d) and Evidence U/s 2(e), the Adhiniyam has begun encompassing and recognizing Electronic evidence and Digital records as Evidence.
- Section 2(d) of the Act defines a document as 'any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records.

- Section 2(e) of the Act recognizes all documents including electronic or digital records produced for the inspection of the Court as documentary evidence which was added to the repealed legislation by the amendment of it in the year 2000, with the introduction of the IT Act.

**The changes in Part-II are as under: -**

- In this part, qua the relating to Relevancy of Facts, the different aspects related to facts such as closely connected facts, Surrounding facts becoming relevant in an attempt to prove facts in issue or relevant facts (Section 7), Things said or done by a conspirator (section 8), facts relevant when right or custom is in question and when facts not otherwise relevant become relevant (section 9) of the Adhiniyam.
- The admission, under the Adhiniyam defined under section 15 has the same meaning as was given to it in the repealed legislation.
- Under the Adhiniyam, Section 22-A - When oral admission as to contents of electronic records is relevant, of the repealed legislation has been omitted.
- The Section 23 of the Adhiniyam contains the provision qua the Confession, and it is a consolidation of provisions from Sections 25, 26 and 27 of the repealed legislation.
- Section 26 now contains provisions relating to Statements made by a person who is dead or cannot be found, previously contained U/s 32 of the repealed legislation.
- Section 27 of the repealed legislation has now been made a proviso to Section 23 of the Adhiniyam.
- Further, the matter of 'Confessions' is dealt with, where any confession in a criminal proceeding that is induced by threat, or promise is irrelevant (Section 22). Sections 28 and 29 of the repealed act, have been introduced as Proviso's to Section 22 of the Adhiniyam.
- This portion of the Adhiniyam also deals with Statements made by persons who can not be called as witnesses and Statements made under special circumstances under Sections 26 to 33 in part II of the Adhiniyam.

- The title of Section 38 of the repealed Legislation, Relevancy of statements as to any law contained in law books' now also extends to law books in electronic or digital form, as mentioned in the margin note of Section 32 of the Adhiniyam.
- Further, Section 45A of the repealed legislation entailing the aspect of 'Opinion of the Examiner of Electronic Evidence' now falls u/s 39(2) of the Adhiniyam.
- Section 41 relating to the Opinion of handwriting and signature when relevant has also absorbed the amended section 47-A of the repealed legislation into Section 41(2) of Adhiniyam, relating to the opinion of electronic / digital signature.
- Section 46 deals with matters of Character in civil cases and when it is relevant, while Sections 47, 48 and 49 of the Adhiniyam deal with the same in Criminal cases.

**The changes in Part-III are as under: -**

- Firstly, it is stated U/s 51 of the Adhiniyam that “No fact of which the Court will take judicial notice need be proved.”, which was Section 56 under the old/repealed Act.
- In this part, under Section 52, clauses (b), (c), (d) and (e) have been reformulated as per present scenario.
- In Section 57 of the Adhiniyam which talks about 'Primary Evidence' 4 new explanations (Explanation No. 4 to 7) have been added, relating to Electronic or Digital record, which was Section 62 under the old/repealed Act.
- In this part, under Section 58 of the Adhiniyam which talks about 'Secondary Evidence', three new components have been added to it, meaning that clauses (vi) (vii) and (viii) talk about oral admissions, written admissions and evidence of a person who has examined a document, the original of which consists of numerous accounts or other documents which cannot conveniently be examined in Court, respectively, are now recognised as Secondary Evidence, which was Section 63 under the old/repealed Act.

- Section 61- Electronic and Digital record, was newly introduced in the Adhinyam which states that 'Nothing in this Adhinyam shall apply to deny the admissibility of electronic or digital record in the evidence on the ground that it is an electronic or digital record and such record shall, subject to section 63, have the same legal effect, validity and enforceability as other document, which was Section 65-B under the old/repealed Act.
- Section 65-A of the repealed legislation is now contained in Section 62 and Section 65-B is now contained in section 63 of the Adhinyam. Moreover, Section 65B (5) (b) of the repealed legislation has been omitted in the Adhinyam.
- In the new Adhinyam a new Schedule containing certificate as Part-A and Part-B to be filed by the party and the expert respectively to authenticate the electronic record/output of the digital record have been annexed which simplified the procedure as well as mode of proof of electronic/digital evidence.
- Section 82 of the repealed legislation dealing with the Presumption as to document admissible in England without proof of seal or signature has been omitted.
- Section 88 of the new Adhinyam is drastically different from its older counterpart Section 86 of the repealed legislation, where the unnecessary reference to her majesty's dominions, United Kindom etc. are removed and replace with more timely and relevant references.
- Another extremely important aspect of the Adhinyam is that of the Burden of Proof, on whom it lies, the Burden of proving fact to be proved to make evidence admissible, the Burden of proving that the case of the accused comes within exceptions etc., has now been added in Part IV of the Adhinyam.
- Witnesses and other related aspects such as who may Testify, the order of Production and examination of witnesses, their cross-examination, examination of own witness, and leading questions are now covered in Part IV of the Adhinyam from Sections 124 to 139 in the Adhinyam.
- Section 127 of the repealed legislation now falls under Section 132(3) of Adhinyam.

- Sections 141, 142 and 143 of the repealed legislation on have been condensed into Section 146 of the Adhiniyam.

**The Part-IV of Adhiniyam contains Chapter VII to XII relating to Production and effect of Evidence, Burden of Proof, Estoppel, Of Witnesses, Of Examination of Witnesses and Repeals and Savings:-**

- The gist of the provisions of Bharatiya Sakshya Adhiniyam, 2023 does not entail many conceptual or theoretical changes in comparison to its older counterpart, now repealed. However the areas of change include making electronic or digital records admissible as evidence, thereby they will have the same legal effect as paper documents, the scope of expansion for secondary evidence to include copies made from the original by mechanical processes, counterparts of documents, and oral accounts of document contents has been made and with its enactment the government is attempting to ensure uniformity not only in the law but also in the procedure by which the law is applied in cases before any Court.

**Key Provisions**

The new law, Bharatiya Sakshya Adhiniyam, 2023, consists of 170 Sections in total instead of 167 Sections as of IEA. This law modified 23 Sections, repealed 5 Sections, and added 1 new Section. The main focus of introducing this new law was to adapt to technological advancements and societal changes over the recent decades. The Bharatiya Sakshya Adhiniyam, 2023, or BSA, 2023 retains various provisions of the IEA such as on burden of proof, confessions, and relevancy of facts. Some of the major changes are listed as follows:

**Section 2** of the BSA, 2023, modified the definition of document by including electronic and digital records. It illustrated that "An electronic record on emails, server logs, documents on computers, laptop or smartphone, messages, websites, locational evidence, and voice mail messages stored on digital devices are documents." The BSA, 2023, allowed oral evidence to be given electronically whereas earlier IEA defined oral evidence as 'all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry'.

**Section 22** of the new law modified the need for confessional admission, "A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat, coercion, or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him."

**Section 24** of the BSA, 2023, illustrated the provision, 'consideration of proved confession affecting person making it and others jointly under trial for same offence'. The Bharatiya Sakshya Adhinyam, 2023, recognized digital and electronic records as primary evidence mentioned under Section 57.

**Section 58** of the BSA, 2023, 'secondary evidence', amended the earlier Section 63 of the IEA, 1872, and expanded the scope of secondary evidence. It included additional categories such as "oral admissions, written submissions, and evidence of a person who has examined a document, the original of which consists of numerous accounts or other documents which cannot conveniently be examined in Court, and who is skilled in the examination of such documents."

**Section 61** of the BSA, 2023, ensures that digital or electronic records will have the same legal effect, validity, and enforceability as other documents. Also, Section 63 expanded the types of digital or electronic records that can be used as evidence in a Court of law. Various other noteworthy additions and modifications are made by the Bharatiya Sakshya Adhinyam, 2023 in the existing Indian Evidence Act, 1872 to provide for general rules and principles of evidence for fair trial.

### **Key changes in the BSA 2023**

**Documentary evidence:** Under the IEA, a document includes writings, maps, and caricatures. The BSA 2023 adds that electronic records will also be considered as documents. Documentary evidence includes primary and secondary evidence. Primary evidence includes the original document and its parts, such as electronic records and video recordings. Secondary evidence

contains documents and oral accounts that can prove the contents of the original. The BSA 2023 retains this classification.

**Oral evidence:** Under the IEA, oral evidence includes statements made before Courts by witnesses in relation to a fact under inquiry. The BSA 2023 allows oral evidence to be given electronically. This would permit witnesses, accused persons, and victims to testify through electronic means.

**Admissibility of electronic or digital records as evidence:** Documentary evidence includes information in electronic records that have been printed or stored in optical or magnetic media produced by a computer. Such information may have been stored or processed by a combination of computers or different computers. The BSA 2023 provides that electronic or digital records will have the same legal effect as paper records. It expands electronic records to include information stored in semiconductor memory or any communication devices (smartphones, laptops). This will also include records on emails, server logs, smartphones, locational evidence and voice mails.

**Secondary evidence:** The BSA 2023 expands secondary evidence to include: (i) oral and written admissions, and (ii) the testimony of a person who has examined the document and is skilled to examine the documents.

**Joint trials:** A joint trial refers to the trial of more than one person for the same offence. The IEA states that in a joint trial, if a confession made by one of the accused which also affects other accused is proven, it will be treated as a confession against both. The BSA 2023 adds an explanation to this provision. It states that a trial of multiple persons, where an accused has absconded or has not responded to an arrest warrant, will be treated as a joint trial.

**Section 170. Repeal & Saving clause added:** (1) The Indian Evidence Act, 1872 is hereby repealed 170. Notwithstanding such repeal, if, immediately before, the date on which this Act comes into force, there is any application, trial, inquiry, investigation proceeding or appeal pending, then, such application, trial, inquiry, investigation, proceeding or appeal shall be dealt with under the provisions of the Evidence Act 1872, as in force immediately before such commencement, as if this Act had not come into force.

#### **Latest Judgments on Admissibility of Electronic Evidence**

- In Landmark Judgment of Hon'ble Supreme Court in "Arjun Pandit Rao Khotkar Vs Kailash Kushan Rao Gorantyal (2020) 7SCC 1" in

reference sent by 2-Judges Bench, a three-Judge Bench of Hon'ble Supreme Court after analysing the decisions in "Anvar P.V Vs P.K. Basheer" and "Shafhi Mohammad Vs State of Himachal Pradesh" ( Both 2-judges Bench), Held that "certificate U/s 65-B Indian Evidence Act is a condition precedent to the admissibility of Electronic Evidence, thus upheld the decision taken in "Anvar P.V Vs P.K. Basheer" and overruled "Shafhi Mohammad Vs State of Himachal Pradesh".

- In Latest Judgment Hon'ble Supreme Court in case titled as " State of Karnataka Vs T Naseer@ Nasir@Hazi and Ors." 2023, Held that a certificate under Section 65-B of the Indian Evidence Act to prove electronic evidence can be produced at any stage of the trial.
- Now, Certificate U/s 63(4)(c) of Adhinyam (Section 65-B of old Evidence Act) has to given in the format provided in Schedule appended with the Adhinyam.

### **Conclusion**

The Indian Evidence Act plays a pivotal role in establishing truth during a trial. It is a critical part of the judicial process. Over the recent years, the Indian Evidence Act has undergone amendments to align with the contemporary needs of the people. Despite this, the existing IEA has not kept up with societal changes and technological advancements. Therefore, the Bharatiya Sakshya Adhinyam, 2023, looks forward to establish harmony with technology and expedition in the prosecution process.

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**COMPARATIVE TABLES**  
**Between Indian Evidence Act, 1872 (IEA 1872)**  
**And Bharatiya Sakshya Adhiniyam, 2023 (BSA 2023)**

<b>Indian Evidence Act, 1872</b>		<b>Bharatiya Sakshya Adhiniyam 2023</b>	
1	Short title, Extent and Commencement of Act.	1	Short title, application and Commencement.
2	Repeat of Enactments.	170	Repeal and Savings.
3	Interpretation-clause.	2	Definitions.
		2(a)	Court
		2(c)	Disproved
		2(d)	Document
		2(e)	Evidence
		2(f)	Fact
		2(g)	Facts in issue
		2(i)	Not proved
		2(j)	Proved
		2(k)	Relevant
4	May presume, Shall presume and Conclusive proof.	2(h)	May presume
		2(l)	Shall presume
		2(b)	Conclusive proof
5	Evidence may be given of facts in issue and relevant facts.	3	Evidence may be given of facts in issue and relevant facts.
6	Relevancy of facts forming part of same transaction	4	Relevancy of facts forming part of same transaction.
7	Facts which are the occasion, cause or effect of facts in issue.	5	Facts which are occasion, cause or effect of facts in issue or relevant facts.
8	Motive, preparation and previous or subsequent conduct.	6	Motive, preparation and previous or subsequent conduct.
9	Facts necessary to explain or introduce relevant facts.	7	Facts necessary to explain or introduce fact in issue or relevant facts.
10	Things said or done by conspirator in reference to common design.	8	Things said or done by conspirator in reference to common design.
11	When facts not otherwise relevant become relevant.	9	When facts not otherwise relevant become relevant.
12	In suits for damages, facts tending to enable Court to determine amount are relevant	10	
13	Facts relevant when right or custom is in question	11	Facts relevant when right or custom is in question
14	Facts showing existence of state of mind, or of body of bodily feeling	12	Facts showing existence of state of mind, or of body of bodily feeling
15	Facts bearing on question whether act was accidental or intentional	13	Facts bearing on question whether act was accidental or intentional
16	Existence of course of business when relevant	14	Existence of course of business when relevant.

17	Admission defined	15	Admission defined
18	Admission by party to proceeding or his agent	16(1)	Admission by party to proceeding or his agent.
18		16(2)(i)	
18(1)	by party interested in subject-matter	16(2)(ii)	
18(2)	by person from whom interest derived	16(2)(iii)	
19	Admissions by persons whose position must be proved as against party to suit.	17	Admissions by persons whose position must be proved as against party to suit.
20	Admissions by persons expressly referred to by party to suit.	18	Admissions by persons expressly referred to by party to suit.
21	Proof of admissions against persons making them, and by or on their behalf.	19	Proof of admissions against persons making them, and by or on their behalf.
22	When oral admissions as to contents of documents are relevant	20	When oral admissions as to contents of documents are relevant
22A	When oral admissions as to contents of electronic records are relevant	—	—
23	Admissions in civil cases, when relevant	21	Admissions in civil cases when relevant
24	Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding	22	Confession caused by inducement, threat, coercion or promise, when irrelevant in criminal proceeding
25	Confession to police officer not to be proved	23 (1)	Confession to police officer
26	Confession by accused while in custody of Police not to be proved against him	23 (2)	—
27	How much of information received from accused may be proved	—	—
28	Confession made after removal of impression caused by inducement, threat or promise, relevant	—	—
29	Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.	—	—
30	Consideration of proved confession affecting person making it and others jointly under trial for same offence	24	Consideration of proved confession affecting person making it and others jointly under trial for same offence
31	Admissions not conclusive proof, but may estop	25	Admissions not conclusive proof, but may estop
32	Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant	26	Cases in which statement of facts in issue or relevant fact by person who is dead or cannot be found, etc., is relevant
32(1)	When it relates to cause of death.	26 (a)	
32(2)	Or is made in course of business.	26 (b)	
32(3)	Or against interest of maker	26 (c)	
32(4)	Or gives opinion as to public right or custom, or matters of general interest	26 (d)	
32(5)	Or relates to existence of relationship	26 (e)	
32(6)	Or made in will or deed relating to family Affairs	26 (f)	
32(8)	Or is made by several persons and expresses feelings relevant to matter in question	26 (h)	
33	Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.	27	Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.
34	Entries in books of account when relevant	28	Entries in books of account when relevant

35	Relevancy of entry in public record made in performance of duty	29	Relevancy of entry in public record made in performance of duty
36	Relevancy of statements in maps charts and Plans	30	Relevancy of statements in maps charts and Plans
37	Relevancy of statements as to fact of public nature contained in certain Acts or notifications	31	Relevancy of statements as to fact of public nature contained in certain Acts or notifications
38	Relevancy of statements as to any law contained in law-books	32	Relevancy of statements as to any law contained in law-books including electronic or digital
39	What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers.	33	What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers.
40	Previous Judgments relevant to bar a second suit or trial	34	Previous Judgments relevant to bar a second suit or trial
41	Relevancy of certain judgments in probate, etc., jurisdiction.	35(1)	Relevancy of certain judgments in probate, etc., jurisdiction
41		35(2)	
42	Relevancy and effect of judgment, orders or decrees, other than those mentioned in section 41	36	Relevancy and effect of judgment, orders or decrees, other than those mentioned in section 35.
43	Judgments, etc., other than those mentioned in section 40, 41 and 42, when relevant.	37	Judgments, etc., other than those mentioned in section 34, 35 and 36, when relevant.
44	Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.	38	Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.
45	Opinions of experts	39(1)	Opinions of experts
45-A	Opinion of Examiner of Electronic Evidence	39(2)	
46	Facts bearing upon opinions of experts	40	Facts bearing upon opinions of experts
47	Opinion as to hand-writing, when relevant	41(1)	Opinion as to handwriting and signature, when relevant
47-A	Opinion as to digital signature, when relevant	41(2)	
48	Opinion as to existence of right or custom, when relevant	42	Opinion as to existence of general custom or right, when relevant
49	Opinions as to usages, tenets, etc., when relevant	43	Opinion as to usages, tenets, etc., when relevant
50	Opinion on relationship, when relevant	44	Opinion on relationship, when relevant
51	Grounds of opinion, when relevant	45	Grounds of opinion, when relevant
52	In civil cases character to prove conduct imputed, irrelevant	46	In civil cases character to prove conduct imputed, irrelevant
53	In criminal cases, previous good character relevant	47	In criminal cases previous good character relevant
53A	Evidence of character or previous sexual experience not relevant in certain cases	48	Evidence of character or previous sexual experience not relevant in certain cases
54	Previous bad character not relevant, except in reply	49	Previous bad character not relevant, except in reply
55	Character as affecting damages	50	Character as affecting damages
56	Fact judicially noticeable need not be proved	51	Fact judicially noticeable need not be proved

57	Fact of which Court must take judicial notice.	52(1)	Facts of which Court shall take judicial notice.
57(1)		52(2)	
57(2)		52(1)(a)	
57(3)		-	-
57(4)		-	-
57(5)		-	-
57(6)		52(1)(e)	Facts of which Court shall take judicial notice.
57(7)		52(1)(f)	Facts of which Court shall take judicial notice.
57(8)		52(1)(g)	
57(9)		52(1)(h)	
57(10)		52(1)(i)	
57(11)		52(1)(j)	
57(12)		52(1)(k)	
57(13)		52(1)(l)	
58	Facts admitted need not be proved	53	Facts admitted need not be proved
59	Proof of facts by oral evidence	54	
60	Oral evidence must be direct	55	
61	Proof of contents of documents	56	
62	Primary evidence	57	
63	Secondary evidence	58	
63(1)		58(i)	
63(2)		58(ii)	
63(3)		58(iii)	
63(4)		58(iv)	
63(5)		58(v)	
64	Proof of documents by primary evidence	59	
65	Cases in which secondary evidence relating to documents may be given	60	
65A	Special provisions as to evidence relating to electronic record	62	
65B	Admissibility of electronic records	63	
66	Rules as to notice to produce	64	
66 (1)		64 (a)	
66 (2)		64 (b)	
66 (3)		64 (c)	
66 (4)		64 (d)	
66 (5)		64 (e)	
66 (6)		64 (f)	

67	Proof of signature and handwriting of person alleged to have signed or written document produced	65	Proof of signature and handwriting of person alleged to have signed or written document produced
67A	Proof as to electronic signature	66	Proof as to electronic signature
68	Proof of execution of document required by law to be attested	67	Proof of execution of document required by law to be attested
69	Proof where no attesting witness found	68	Proof where no attesting witness found
70	Admission of execution by party to attested document	69	Admission of execution by party to attested document
71	Proof when attesting witness denies the execution	70	Proof when attesting witness denies the execution
72	Proof of document not required by law to be attested	71	Proof of document not required by law to be attested
73	Comparison of signature, writing or seal with others admitted or proved	72	Comparison of signature, writing or seal with others admitted or proved
73A	Proof as to verification of digital signature	73	Proof as to verification of digital signature
74	Public documents	74 (1)	Public and private documents
75	Private documents	74 (2)	
76	Certified copies of public documents	75	Certified copies of public documents
77	Proof of documents by production of certified copies	76	Proof of documents by production of certified copies
78	Proof of other official documents	77	Proof of other official documents
79	Presumption as to genuineness of certified copies	78	Presumption as to genuineness of certified copies
80	Presumption as to documents produced as record of evidence	79	Presumption as to documents produced as record of evidence, etc.
81	Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents	80	Presumption as to Gazettes, newspapers, and other documents
81A	Presumption as to Gazettes in electronic forms	81	Presumption as to Gazettes in electronic or digital record
82	Presumption as to document admissible in England without proof of seal or signature	—	—
83	Presumption as to document admissible in England without proof of seal or signature.	82	Presumption as to maps or plans made by authority of Government
84	Presumption as to collections of laws and reports of decisions.	83	Presumption as to collections of laws and reports of decisions
85	Presumption as to power-of-attorney	84	Presumption as to powers-of-attorney
85 A	Presumption as to electronic agreements	85	Presumption as to electronic agreements
85 B	Presumptions as to electronic records and electronic signatures	86	Presumption as to electronic records and electronic signatures
85 C	Presumption as to Electronic Signature Certificates	87	Presumption as to Electronic Signature Certificates
86	Presumption as to certified copies of foreign judicial records	88	Presumption as to certified copies of foreign judicial records
87	Presumption as to books, maps and charts	89	Presumption as to books, maps and charts
88	Presumption as to telegraphic messages	—	—
88 A	Presumption as to electronic messages	90	Presumption as to electronic messages
89	Presumption as to due execution, etc., of documents, not produced	91	Presumption as to due execution, etc., of documents not produced
90	Presumption as to documents thirty years old.	80 Explanation	Presumption as to Gazettes, newspapers, and other documents.

90		92	Presumption as to documents thirty year old.
90A	Presumption as to electronic record five years old.	81 Explanation	Presumption as to Gazettes in electronic or digital record.
90-A		93	Presumption as to electronic records five years old.
91	Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.	94	Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.
92	Exclusion of evidence of oral agreement.	95	Exclusion of evidence of oral agreement.
93	Exclusion of evidence to explain or amend ambiguous document.	96	Exclusion of evidence to explain or amend ambiguous document.
94	Exclusion of evidence against application of document to existing facts.	97	Exclusion of evidence against application of document to existing facts.
95	Evidence as to document unmeaning reference to existing facts.	98	Evidence as to document unmeaning reference to existing facts.
96	Evidence as to application of language which can apply to one only of several persons.	99	Evidence as to application of language which can apply to one only of several persons.
97	Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.	100	Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.
98	Evidence as to meaning of illegible characters, etc.	101	Evidence as to meaning of illegible characters, etc.
99	Who may give evidence of agreement varying terms of document.	102	Who may give evidence of agreement varying terms of document.
100	Saving of provisions of Indian Succession Act relating to wills.	103	Saving of provisions of Indian Succession Act relating to wills.
101	Burden of proof	104	Burden of proof
102	On whom burden of proof lies.	105	On whom burden of proof lies.
103	Burden of proof as to particular fact	106	Burden of proof as to particular fact
104	Burden of proving fact to be proved to make evidence admissible.	107	Burden of proving fact to be proved to make evidence admissible.
105	Burden to proving that case of accused come within exceptions	108	Burden to proving that case of accused come within exceptions
106	Burden to proving fact especially within knowledge	109	Burden to proving fact especially within knowledge
107	Burden proving death of person known to have been alive within thirty years	110	Burden proving death of person known to have been alive within thirty years
108	Burden to proving that person is alive who has not been heard of for seven years	111	Burden to proving that person is alive who has not been heard of for seven years
109	Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent	112	Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent
110	Burden of proof as to ownership	113	Burden of proof as to ownership
111	Proof of good Faith in transactions where one party is in relation of active confidence	114	Proof of good Faith in transactions where one party is in relation of active confidence
111-A	Presumption as to certain offences	115	Presumption as to certain offences
112	Birth during marriage, conclusive proof of Legitimacy	116	Birth during marriage, conclusive proof of legitimacy
113	Proof of cession of territory	-	-
113-A	Presumption as to abetment of suicide by a married woman	117	Presumption as to abetment of suicide by a married Woman
113-B	Presumption as to dowry death	118	Presumption as to dowry death
114	Court may presume existence of certain facts	119	Court may presume existence of certain facts
114- A	Presumption as to absence of consent in certain prosecution for rape	120	Presumption as to absence of consent in certain prosecution for rape
115	Estoppel	121	Estoppel
116	Estoppel of tenants and of licensee of person of in possession	122	Estoppel of tenants and of licensee of person of in Possession

117	Estoppel of acceptor of bill of exchange, bailee of licensee	123	Estoppel of acceptor of bill of exchange, bailee of Licensee
118	Who may testify	124	Who may testify
119	Witness unable to communicate verbally	125	Witness unable to communicate verbally
120	Parties to civil suit, and their wives of husbands Husband or wife of Parties under Criminal trial	126	Contingency of Husband and Wife as witnesses in certain cases
121	Judges and Magistrate	127	Judges and Magistrate
122	Communication during Marriage	128	Communication during Marriage
123	Evidence as to affairs of state	129	Evidence as to affairs of state
124	Official Communications	130	Official Communications
125	Information as to commission of offences	131	Information as to commission of offences
126	Professional Communications	132(1)	
127	126 to apply to interpreters, etc	132(3)	
128	Privilege not waived by volunteering evidence	133	Privilege not waived by volunteering evidence
129	Confidential communications with legal advisers	134	Confidential communications with legal advisers
130	Productions of title-deeds of witness not a party	135	Productions of title-deeds of witness not a party
131	Production of documents of electronic records which another person, having possession, could refuse to produce	136	Production of documents of electronic records which another person, having possession, could refuse to produce
132	Witness not excused from answering on ground that answer will criminate	137	Witness not excused from answering on ground that answer will criminate
133	Accomplice	138	Accomplice
134	Number of witnesses	139	Number of witnesses
135	Order of production and examination of witnesses	140	Order of production and examination of witnesses
136	Judge to decide as to admissibility of evidence	141	Judge to decide as to admissibility of evidence
137	Examination-in-chief	142	Examination of witnesses
138	Order of examinations	143	Order of examinations
139	Cross-examination of person called to produce a document	144	Cross-examination of person called to produce a document
140	Witnesses to character	145	Witnesses to character
141	Leading questions	146(1)	Leading questions
142	When they must not be asked	146(2)	
		146(3)	
143	When they may be asked	146(4)	-
144	Evidence as to matters in writing	147	Evidence as to matters in writing
145	Cross-examination as to previous statements in writing.	148	Cross-examination as to previous statements in Writing.
146	Questions lawful in cross-examination	149	Questions lawful in cross-examination
147	When witness to be compelled to answer.	150	When witness to be compelled to answer.
148	Court to decide when question shall be asked and when witness compelled to answer.	151	Court to decide when question shall be asked and when witness compelled to answer.

149	Question not to be answer without reasonable Grounds	152	Question not to be answer without reasonable grounds.
150	Procedure of Court in case of question being asked without reasonable grounds.	153	Procedure of Court in case of question being asked without reasonable grounds.
151	Indecent and scandalous questions	154	Indecent and scandalous questions
152	Questions intended to insult or annoy	155	Questions intended to insult or annoy
153	Exclusive of evidence to contradict answers to questions testing veracity.	156	Exclusive of evidence to contradict answers to questions testing veracity
154	Question by party to his own witness.	157	Question by party to his own witness.
155	Impeaching credit of witness.	158	Impeaching credit of witness.
156	Questions tending to corroborate evidence of relevant fact, admissible.	159	Questions tending to corroborate evidence of relevant fact, admissible.
157	Former statements of witness may be proved to corroborate later testimony as to same fact.	160	Former statements of witness may be proved to corroborate later testimony as to same fact.
158	What matters may be proved in connection with proved statement relevant under section- 32 or 33.	161	What matters may be proved in connection with proved statement relevant under section-26 or 27.
159	Refreshing memory.	162	Refreshing memory
160	Testimony to facts stated in document mentioned in section 159.	163	Testimony to facts stated in document mentioned in Section 162.
161	Right of adverse party as to writing used to refresh memory.	164	Right of adverse party as to writing used to refresh Memory.
162	Production of documents.	165	Production of documents.
163	Giving , as evidence, of document called for and produced on notice	166	Giving , as evidence, of document called for and produced on notice
164	Using, as evidence, of document production of which was refused on notice	167	Using, as evidence, of document production of which was refused on notice
165	Judge's power to put questions or order Production	168	Judge's power to put questions or order Production
166	Power of jury or assessors to put questions	-	-
167	No new trial for improper admission or rejection of evidence	169	No new trial for improper admission or rejection of evidence

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# THE SCHEDULE

[See Section]

## CERTIFICATE

PART A

(To be filled by the Party)

I ..... (Name), Son/daughter/  
spouse of ..... residing/  
employed at .....do hereby solemnly  
affirm and sincerely state and submit as follows:—

I have produced electronic record/output of the digital record taken from the  
following device/digital record source (tick mark):-

Computer/ Storage Media  DVR  Mobile  Flash Drive

CD/DVD  Server  Cloud  Other

Other :.....

Make & Model:..... Color:

.....

Serial Number:

IMEI/UID/UID/MAC/C10ud ID .....(as applicable)

and any other relevant information, if any, about the device/ digital record  
.....(specify).

The digital device or the digital record source was under the lawful control for  
regularly creating, storing or processing information for the purposes of carrying out  
regular activities and during this period, the computer or the communication device was  
working properly and the relevant information was regularly fed into the computer during  
the ordinary course of business. If the computer/ digital device at any point of time was not  
working properly or out of operation, then it has not affected the electronic/digital record or  
its accuracy. The digital device or the source of the digital record is:

Owned  Maintained  Managed  Operated

by me (select as applicable).

I state that the HASH value/ s of the electronic/digital record/ s is.

..... obtained through the following algorithm:-

SHA1:

SHA256:

MD5:

Other ..... (Legally acceptable standard)

(Hash report to be enclosed with the certificate)

Date (DD/MM/YYYY):

(Name and signature)

Time (IST): hours (In 24 hours format)

Place :

**PART B**  
(To be filled by the Expert)

I.....  
...(name), Son/ daughter/ spouse of. ....residing/ employed  
at.....

do hereby solemnly affirm and sincerely state and submit as follows:—

The produced electronic record/ output of the digital record are obtained from  
the following device/ digital record source (tick mark):

Computer/Storage Media  DVR  Mobile  Flash Drive   
CD/DVD  Server  Cloud  Other

Other :

Make & Model:

Color:

Serial Number:

IMEI/UIN/UID/MAC/C10ud

ID

..... (as applicable) and any  
other relevant information, if any, about the device/ digital record .....  
(specify).

I state that the HASH value/ s of the electronic/ digital record/ s is obtained through the  
following algorithm :-

SHA1:

SHA256:

MD5:

Other:\_\_\_\_\_ (Legally acceptable standard)

(Hash report to be enclosed with the certificate)

(Name and signature)

Date

(DD/MM/YYYY): ....

Time (IST): ..... hours (In 24 hours format)

Place :.....

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Thankyou,

With Regards,

District and Sessions Court Kondagaon

1- Shri kamlesh kumar jurri, ADJ, FTSC (POCSO).

2- Anjali singh, Civil judge class II, Keshkal

3- Amba Shah, secretary, DLSA Kondagaon.