

**TENDERING CCTV FOOTAGE IN EVIDENCE:
PRACTICAL ASPECTS IN THE LIGHT OF NEW LAW AND RECENT CASES**

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Closed-Circuit Television (CCTV) systems have become a ubiquitous feature in modern society, playing a significant role in crime prevention and detection. The footage captured by these systems is frequently used as evidence in legal proceedings. This Article explores the legal and practical aspects, and challenges, surrounding the use of CCTV footage as evidence in courts, in the light of latest case laws and the new Criminal Law.

The CCTV Footage is an electronic evidence, and like any other electronic evidence it is required to comply with certain requirements (particularly the certificate) under the evidence law to be admissible. Therefore the first part of the Article shall deal with requirement of admissibility of electronic evidence under the Bharatiya Sakshya Adhiniyam, 2023, thereafter the second Part deals with practical legal aspects specific to the furnishing of CCTV footage. The third part, deals with the challenges in furnishing CCTV Evidence and the Solutions. The Practical aspects relating to CCTV Evidence has been covered along with the relevant facts of recent cases and observations of Hon'ble Supreme Court and Hon'ble High Courts.

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PART1

Requirement of Certificate for admissibility of Electronic Evidence

1-Provisions relating to Electronic Record in the New Law:

The Bharatiya Sakshya Adhiniyam, 2023, includes electronic and digital records within the definition of “document”¹, and the “evidence” means and includes “all documents including electronic or digital records produced for the inspection of the Court and such documents are called documentary evidence”. Thus the electronic evidence are admissible in the same way as documentary evidence are admitted in the court, and the rules relating to documentary evidence, such as the classification of primary and

1 Section 2(d)

secondary evidence are equally applicable to electronic evidence. It is also settled law that the contents of the documents can be proved by Primary or Secondary Evidence.² The New Law further ensures that electronic records have the same legal effect, validity, and enforceability as other documents, by specifically making a provision of section 61 which reads as:

“Nothing in this Adhiniyam shall apply to deny the admissibility of an 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.”

The significant difference between electronic evidence and documentary evidence, for practical purposes and their admissibility is the requirement of Certificate in support of the Electronic Evidence. The certificate is required to be given when the secondary evidence is produced (which in simple language is a copy of the original) in the Court. The details of non requirement of certificate are subsequently discussed in next section of this part in the light of Arjun Pandit Rao Judgment). The Bharatiya Sakshya Adhiniyam, 2023 has made a significant change as now section 63(4) requires 2 certificates- One, a certificate of person in charge of the computer or communication device or management of the relevant activities, and secondly, a certificate of an expert. It is relevant to reproduce the relevant provision as under:

Section 63(4) :In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things shall be submitted along with the electronic record at each instance where it is being submitted for admission, namely:--

- (a) identifying the electronic record containing the statement and describing the manner in which it was produced;*
- (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses (a) to (e) of sub-section (3);*
- (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,*
and purporting to be signed by a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate) and an expert shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it in the certificate specified in the Schedule.

The Bharatiya Sakshya Adhiniyam, 2023 now provides the Performa of the Certificates to be filled by the party and by the Expert, in the Schedule provided in the Act. Thus the contents which are to be given in the certificate are now uniform and can be easily obtained from the Act itself. It is now important to examine as to when the certificate is required and at what stage the certificate is to be given.

2 Section 56

2- Requirement of Certificate- When and What stage :

After the Arjun Panditrao Khotkar Judgment³ of Hon'ble Supreme Court it is now a settled law that in case a secondary evidence is given before the Court (such as extracts in pen drive/Compact Discs) the requirement of Certificate under section 65B of the Indian Evidence Act is mandatory. However, the required certificate under Section 65B(4) is unnecessary if the original document itself is produced before the Court. One exception to the above rule of mandatory requirement of certificate is when the litigant has done everything in his power to obtain the requisite certificate from the appropriate authorities, including directions from the Court to produce the requisite certificate, and no such certificate is forthcoming, then in such a case, the evidence of the witness who is in power/control of the Device, and his statements made in examination before the Court, is "substantial compliance" with Section 65B(4).

In the above case of **Arjun Panditrao Khotkar vs Kailash Kushanrao Gorantyal** two election petitions were filed by the present Respondents before the Bombay High Court challenging the election of the Appellant, as it was contended that nomination papers suffered from defects as nomination papers had been improperly accepted by the Returning Officer (hereinafter RO) after stipulated time of 3:00 PM which rendered such nomination forms not being filed in accordance with the law, and ought to have been rejected. The Respondents sought to rely upon video-camera arrangements that were made both inside and outside the office of the RO. According to the Respondents, the nomination papers were only offered at 3.53 p.m. (i.e. beyond 3.00 p.m.), as a result of which it was clear that they had been filed out of time.

The High Court of Bombay, finding that no written certificate as is required by Section 65-B(4) of the Evidence Act was furnished by any of the election officials, and more particularly, the RO, and the fact that the Respondent had made several attempts to obtain certificate from the concerned officials but was unable to secure it, the High Court then held that the statement of the witness particularly the Returning Officer, was substantially a compliance of the requirement of certificate under section 65B, as she categorically stated as how the VCDs were stored and kept in the office. A brief of the statement which was relied by the Hon'ble High Court is as follows:

"69. In substantive evidence, in the cross examination of Smt. Mutha, it is brought on the record that there was no complaint with regard to working of video cameras used by the office. She has admitted that the video cameras were regularly used in the office for recording the aforesaid incidents and daily VCDs were collected of the recording by her office. This record was created as the record of the activities of the Election Commission. It is brought on the record that on the first floor of the building, arrangement was made by keeping electronic gazettes like VCR players etc. and arrangement was made for viewing the recording. It is already observed that under her instructions, the VCDs were marked of this recording. Thus, on the basis of her substantive evidence, it can be said that the conditions mentioned in [section 65-B](#) of the Evidence Act are fulfilled and she is certifying the electronic record as required by section 65-B (4) of the [Evidence Act](#). It can be said that Election Commission, the machinery avoided to give certificate in writing as required by [section 65-](#)

³Arjun Panditrao Khotkar vs Kailash Kushanrao Gorantyal (2020) 7 SCC 1 at 46

B (4) of the Evidence Act. But, substantive evidence is brought on record of competent officer in that regard.

The above witness was incharge of the management of the relevant activities and so her evidence can be used and needs to be used as the compliance of the provision of section 65-B of the Evidence Act. The Court held that there is compliance of the provision of section 65-B of the Evidence Act in the present matter in respect of aforesaid electronic record and so, the information contained in the record can be used in the evidence. Based, therefore, on “substantial compliance” of the requirement of giving a certificate under Section 65B of the Evidence Act, it was held that the CDs/VCDs were admissible in evidence, and based upon this evidence it was found that, as a matter of fact, the nomination forms by the RC had been improperly accepted. The election of the RC was therefore was declared void in the impugned judgment.

The Hon’ble Supreme Court dismissed the Appeal and observed that , *Anvar P.V*⁴ , is the law declared by this Court on Section 65B of the Evidence Act. The judgment in *Tomaso Bruno*⁵, being per incuriam, does not lay down the law correctly. Also, the judgment *Shafhi Mohammad*⁶ do not lay down the law correctly and are therefore overruled. It was observed on the requirement of certificate that:

“...the required certificate under Section 65B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where the “computer” happens to be a part of a “computer system” or “computer network” and it becomes impossible to physically bring such system or network to the Court, then the only means of providing information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4).”

The Hon’ble Court found that despite all efforts made by respondents through the High Court and otherwise, the litigant failed to obtain the Section 65-B(4) certificate from the government authorities who held the original electronic recording. Thus considering that the Respondent had done everything in his power to obtain the requisite certificate from the appropriate authorities, including directions from the Court to produce the requisite certificate, no such certificate was forthcoming, the requirement of certificate was substantially complied with the evidence taken above.

Stage of furnishing certificate: Section 65B does not mentions the stage at which such certificate must be furnished to the Court. In *Anvar P.V*, the Hon’ble Supreme Court did observe that such certificate must accompany the electronic record when the same is produced in evidence. The Hon’ble Supreme Court in *Arjun Pandit Rao* however clarified that, this is the position in cases where such certificate could be procured by the person seeking to rely upon an electronic record. However, in cases where either a defective certificate is given, or in cases where such certificate has been demanded and is not given by the concerned person, the Judge conducting the trial must summon the person/persons referred to in [Section 65B\(4\)](#) of the Evidence Act, and require that such certificate be

4Anvar P.V vs P.K.Basheer 2014 (10) SCC 473

5 Tomaso Bruno v State of Uttar Pradesh (2015) 7 SCC 178

6Shafhi Mohammad v. State of Himachal Pradesh (2018) 2 SCC 801

given by such person/persons. This, the trial Judge ought to do when the electronic record is produced in evidence before him without the requisite certificate in the circumstances aforementioned.

PART 2- Practical Aspects relating to CCTV Footage Evidence

The CCTV footage is a crucial evidence as when corroborated with other evidence, it particularly helps in establishing the presence of the accused or the victim at the crime scene. It gives considerable support to the testimony of the witnesses. Practically several questions arise in day to day court proceedings when CCTV Footage is given in evidence. Whether the Accused can seek a copy of the CCTV footage sought to be relied by the Prosecution in support of its case? Whether a victim can apply to the court for securing a footage of public CCTV Camera, in case the Investigating Officer neglects to do so? What if the Court plays only a clipping of the CCTV from a pen drive, and not the entire Hard disk ? If the CCTV evidence is not furnished, the consequences it may have on prosecution case? All these questions are explored in this part of the Article. The relevant facts and observation of Hon'ble Courts have been narrated to substantiate the Points.

1- Whether the Accused is entitled to copy of the CCTV Footage- Including sexual offences?

It is a requirement stemming from Natural justice that the accused should be shown all the incriminating substance which the prosecution proposed to rely on in support of its case. Further it is also essential that the material collected during the course of investigation should be supplied to the accused in view of the requirement of Section Section 193(8) read with Section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) which states that the investigating officer must submit copies of the police report and other documents to the Magistrate, who must then supply these documents to the accused and victim. If the documents are voluminous, the Magistrate can provide copies electronically or allow the accused and victim to inspect them in court. As already noted in the first Part of this Article 'Documents' now include electronic records, thus it is clear that the electronic records should be given to the Accused in compliance of section 193(8).

Even before the explicit introduction of electronic record as documents in the present law, in the erstwhile The Indian Evidence Act 1872, a similar question arose before Hon'ble Court. In the following case, the key question arose whether, the extract of CCTV footage is also to be given to the accused ? And what if the CCTV Footage captures a case of sexual assault ?

In **Jisal Razak V State of Kerala**⁷ (Crl Misc. Case No. 4148 of 2019) decided by Hon'ble Kerala High Court, the petitioner approached the learned Magistrate and filed an application seeking to obtain copies of (a) the CCTV footage relied on by the prosecution, (b) the FSL report obtained from the Forensic Science Laboratory relating to the CCTV footage and (c) the report submitted by the investigating agency seeking further investigation, however the prosecution vehemently opposed the handing over of the CCTV footage. As per the facts, in the course of investigation, the investigating officer chanced upon information that the congregation of some of the accused in and

⁷ 2019 LawSuit(Ker) 1001, decided on 30.9.2019

around the scene of crime immediately prior to the murder and also of the injured witness being carried away from the location had been captured in three security cams installed at nearby places. The footage was retrieved by following the procedure and the same was forwarded to the Cyber Forensic Lab for analysis and a report was obtained. The footage was produced before Court along with the final report by categorizing the same as a material object. The question which arose was whether it is a material evidence, which cannot be given to the Accused. While rejecting the argument, Hon'ble Court observed that:

"CCTV footage in the instant case is "data" as defined under S.2(o) of the Information Technology Act, 2000 and it is an electronic record as defined under S.2(t) of the I.T. Act. If that be the case, the electronic record produced for the inspection of the Court has to be regarded as documentary evidence. In that view of the matter, I am unable to accept the logic of the prosecution in producing the CCTV footage as a material object and in refusing to supply a copy of the same to the accused",

If a hard disk or a magnetic disk containing data is stolen and the same is seized and produced in court, it may sometimes be difficult to categorize it as 'a thing' produced for inspection of the court or a 'document'. One way of distinguishing it is by asking a question as to whether the item is relevant in itself or whether the item is relevant because of the information that can be retrieved from it. In other words, if a material thing is produced in court to rely on the data that it contain"CCTV footage in the instant case is "data" as defined under S.2(o) of the Information Technology Act, 2000 and it is an electronic record as defined under S.2(t) of the I.T. Act. If that be the case, the electronic record produced for the inspection of the Court has to be regarded as documentary evidence. Thus the logic of the prosecution in producing the CCTV footage as a material object and in refusing to supply a copy of the same to the accused was not acceptable.

Procedure in case of CCTV containing content relating to Sexual Abuse: It was held in the above case that cloned Digital copies of the footage relied on by the prosecution have to be made available to the accused, unless it is impracticable or unjustifiable. For instance, in a case of brutal sexual abuse, if the incident has been videotaped, in view of the element of privacy or to prevent misuse, copy may be refused. In a case in which the accused is being prosecuted for possessing pedophilic material, copies of the same can be refused. In such cases, the Court may grant permission to counsel or the accused to have a private screening to have a proper defense. Same is the case in a terrorism prosecution, wherein national security interests demands non-disclosure of the digital evidence, which has been collected. These are merely illustrative and not exhaustive. Thus in such cases an opportunity to inspect the Footage should be given to the Accused.

2- Victim or the Accused can also file Application for securing CCTV Footage of public place :

Section 94 of the **Bharatiya Nagarik Suraksha Sanhita (BNSS)** provides that whenever any Court or any officer in charge of a police station considers that the production of any document, electronic communication, including communication devices which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita by or before such Court

or officer, such Court may issue a summons or such officer may, by a written order, either in physical form or in electronic form, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order. The above section is similarly worded as former Section 91 of the Code of Criminal Procedure (CrPC) of 1973. However now there is express mention of digital evidences.

In the recent decision in **Jaspreet Kaur v State NCT Delhi**, CRL.M.C. 8770/2023 decided on 12 Decemeber 2023, Hon'ble Delhi High Court, after considering the overall facts and circumstances of the case, directed that the CCTV footage of the day of incident i.e. 02.05.2023, surrounding the house of the petitioner, as well as the Call Detail Records of the accused persons be collected by the Investigating Officer, and set aside the order of Trial Court dismissing Application U/s 91 of the CrPC, filed by Victim's mother.

In the present case, after the charge sheet was filed by the investigating officer, the Petitioner herein had filed the Application under Section 91 of Cr.P.C., on behalf of the minor victim, seeking preservation of CCTV footage of the place of incident and CDRs of accused persons, of the relevant time period. It is the case of the petitioner that it is necessary and desirable to procure/preserve these documents/records, for just decision of present case. The victim who was undergoing mental rehabilitation after alleged incident, had inadvertently mentioned the date of incident as 29.05.2023, whereas it had occurred on 02.05.2023 and the I.O. was duly informed about the actual date of incident. The Application was rejected by the Trial Court, as there was discrepancy in the date of incident. However the Hon'ble Delhi High Court, while setting aside the order observed that Trial Court did not go through the medical treatment record of the victim which was the very basis of filing of application under Section 91 Cr.P.C, the circumstances which led to informing of different date was well explained as the victim herself before the commencement of trial had appeared before the learned Trial Court and apprised it about this discrepancy and the reason thereof, and the Application should not have been rejected. It was observed:

“This Court is also of the firm opinion that sensitivity is not a selective attribute applicable to certain cases or stages of trial; rather it is an inherent requirement for every judicial proceeding. Sensitivity has to be shown by the Courts at every stage of trial especially in a case of sexual assault of a minor. The Courts cannot lay emphasis on a particular stage of trial such as recording of her evidence when such sensitivity is to be shown towards the victims...

It was further observed that “Dismissing the application filed by the petitioner under Section 91 of Cr.P.C., solely on the basis that a different date had been earlier mentioned as date of incident by the minor victim, which was prima facie due to her adversely affected mental health as an outcome of the sexual assault, is undoubtedly unjust in the given set of facts and circumstances.

Section 94 of the Bharatiya Nagarik Suraksha Sanhita/ Section 91 of the CrPC does not expressly provide as to who can invoke this provision. It is a settled law now that the window of Section 91 is open for all the stakeholders in an investigation, inquiry, trial and other proceedings, be it the victim, accused, police, Court or any other stakeholders involved. What is to be seen in Applications under section 91 is that, any document or other thing envisaged under the aforesaid provision can be ordered to be produced on

finding that the same is “necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code”. The first and foremost requirement of the section is about the document being necessary or desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production. If any document is necessary or desirable for the defence of the accused, the question of invoking Section 91 at the initial stage of framing of a charge would not arise since defence of the accused is not relevant at that stage. When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the court for summoning and production of a document as may be necessary at any of the stages mentioned in the section. Insofar as the accused is concerned, his entitlement to seek order under Section 91 would ordinarily not come till the stage of defence. When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it, whether police or accused.

3- Is it mandatory to play the Hard disk in the Court ?

There is per se no requirement under any law to play the entire hard disk in the court. The requirement however arises out of caution and practicality. If the pen drive containing the clippings of the video in the hard disk, are marked as separate exhibits, and properly certified (with certificate U/s 65B of the Evidence Act) and are played in the court, and the opposite party does not raise any objection during the trial or request that the entire hard disk be played, then later on the objection that entire hard disc was not played has no force.

In this context the facts and observation of Hon’ble Supreme Court in *Taqdir v. State of Haryana*⁸ appear relevant. In the instant case, during the course of investigation, the hard disk of the computer system pertaining to eight CCTV cameras installed in the premises of the hospital was taken in custody from PW 12 the Marketing Manager, Delhi Hospital, under a panchnama by the investigating machinery. The panchnama was signed by all the concerned including PW 12 and the panchnama, Ext. PW 12/A bore his signatures. The pen drive and the compact disc were also brought on record as Exts. P-86 and P-87, while the hard disk itself was produced as Ext. P-23. During investigation the data concerning the incident was transferred from the hard disk of said computer system on to a pen drive and a compact disc by PW 19, a hardware engineer, who was requisitioned by the police to take out the hard disk from said computer system and he also signed the panchnama, Ext. PW 12/A. In the present murder case, the material recovered from eight CCTV camera footages, hard disk and pen drive showed the way the incident had developed and the role played by some of the accused. According to the High Court, the electronic evidence in the form of CCTV footages was completely supported by the requisite requirements of law and could be read as evidence on record. The High Court was of the view that four assailants had stormed into the hospital and into the room occupied by the deceased; and as evident from the CCTV footages; and the accused were carrying arms with them; and by using those firearms they had caused the death of the deceased Rakesh alias Kala. While dismissing the Appeal Hon’ble Supreme Court observed as under :

8(2022) 4 SCC 321 : (2022) 2 SCC (Cri) 160

“16. The sequence of events captured by the CCTV cameras which were stored in the hard disk and reproduced as Exts. P-86 and P-87, duly accompanied by the requisite certification under Section 65-B of the Evidence Act, 1872, clearly showed the role played by all these assailants. Some of the images definitely showed that they were having firearms in their possession; they entered the room of the deceased and came out in a short while. The sequence of events completely stand corroborated by the injuries suffered by the deceased.

17. A feeble attempt was made by the learned counsel for these petitioners that the hard disk itself was not played in the Court. It is true that what was actually played in the Court was the version available from Exts. P-86 and P-87. But the hard disk was always part of the record and was available in Court. At no stage, any objection was raised or a request was made that the hard disk itself be played in the Court. In any case, the requisite certification having accompanied Exts. P-86 and P-87, the courts below were not in error in relying upon the CCTV footages available through these sources.

4. Evidentiary Value and Weight-age CCTV Footage:

In today’s times, CCTV cameras are found almost everywhere, and are important corroborative evidence in criminal cases. Be it CCTV installed in shops⁹, hospitals¹⁰, hotels¹¹ and other public places, such evidence have helped the courts from time to time in reaching to findings in the Criminal cases. The relevance of the CCTV footage varies from case to case. Very often they help in identification of the accused or his absence from the crime spot (relevant under Section 9 of the Bharatiya Sakshya Adhinyam, 2023), or may show any previous or subsequent of the Accused before or after the alleged incident (relevant under section 6 of the Bharatiya Sakshya Adhinyam, 2023), or may show existence of a state of mind of the person (relevant under section 12 of the Bharatiya Sakshya Adhinyam, 2023)

In *K Ramajayam @ Appu v The Inspector of Police*, the CCTV footages helped the court in establishing 2 findings along with the other evidence, one- that the testimony of the witness was reliable, as the CCTV footage showed his presence in the shop before the alleged incident, and thus certainly he was not a planted witness, and secondly, the CCTV footage established the Presence of the Accused at the crime scene, and was supported by the fact that his clothes recovered matched with the ones the accused was wearing in CCTV footage. The CCTV footage in the shops, installed in 4 different locations, were viewed in the present case, which clearly showed that the deceased was alone in the shop, and an intruder entered into the shop and after committing the murder, walked out with the jewels in the display panel. Though the face of the assailant was identifiable from CCTV footages, yet his name and other particulars were not known to anyone. Placing reliance on the CCTV Footage, the Hon’ble Court came to the finding that the other eye witness, who had seen the Accused in the shop, was not a planted witness, as could be seen in the entire CCTV Footage. Further Hon’ble Court observed that in the present case

9 *K Ramajayam @ Appu v The Inspector of Police*, 2016 SCC OnLine Mad 451, Madras High Court

10 *Taqdir v. State of Haryana*, (2022) 4 SCC 321

11 *State v Ram Singh* **2014 SCC OnLine Del 1138**

“The most powerful evidence against the accused is the CCTV recordings.”On the perusal of the snapshots was seen that a person wearing horizontally striped T-Shirt is found talking to person in the counter; attacking him; and leaving the shop. The shirt was also matching with description of the shirt recovered from Accused on his arrest. The Hon’ble upheld the conviction of the Accused for murder.

Another example of the CCTV footage, in cases other than criminal cases, is the Arjun Pandit Rao Judgment (referred in first part of this Article), where on the basis of CCTV footage outside the election room, it was clearly established that the nomination papers were accepted beyond the stipulated time of 3:00 PM, and after 5 minutes of the allowed time.

Thus Courts are increasingly rely on CCTV footage to corroborate testimonies, establish timelines, and identify individuals involved in criminal activities. The visual nature of the evidence makes it particularly compelling, as it provides an objective record of events that can significantly influence the outcome of a case. Courts have used CCTV footage in various cases, ranging from high-profile criminal trials to civil disputes.

Part 3

Challenges and Possible Solutions:

Visual evidence can corroborate or refute testimonies, provide timelines, and identify individuals involved in criminal activities. Despite its advantages, there are challenges in using CCTV footage as evidence. The reliability can be affected by several factors, including the quality and clarity of the footage, the angle of the camera, and the potential manipulation. One major issue is the potential for tampering or editing, which could compromise the integrity of the evidence. Moreover, not all CCTV systems are created equal; differences in technology, maintenance, and operation can lead to varying degrees of clarity and reliability. Additionally, there are concerns about the potential for misinterpretation of footage, thus a proper transcript is required to be prepared along with the CCTV footage when the Investigating Officer submits the same to the court or makes it part of record of investigation. Courts have to carefully consider these factors when determining the weight of the evidence.

There are presently no uniform Rules which govern the tendering of evidence of CCTV Footage in Court. Proper guidelines or Rules containing the procedure of tendering the CCTV evidence in courts need to be framed to ensure best practice for such tendering such evidence and avoid legal loopholes. Although now the uniform Performa of the Certificate required to be furnished has been prescribed in the Schedule to The Bharatiya Sakshya Adhiniyam, 2023, which ensures uniformity with respect to the Contents of the Certificate, there is still need of a uniform procedure to authenticate such evidence. The tendering of CCTV footage Evidence, involves multiple things to ensure its authenticity/genuineness, it may include, tendering hard disc, even a copy of clipping in pen drive, a transcript of the footage, attestation by panch witnesses, authentication by forensic laboratory, signature of an expert, certificate of the person in control of the device et al.

Reference can be made to certain guidelines which were laid down by Hon'ble Bombay High Court in 2019, in *Vaijinath v State Of Maharashtra*¹². In the instant case the Hon'ble Court granted the permission to withdraw the Appeals, however on the submission of the Ld APP, about the fact that they that CCTV footage is collected by Police showing that the deceased was last seen in the company of appellants and that will be used as piece of circumstantial evidence and further it was submitted that that pen drive containing CCTV footage was collected by Police during the course of investigation from Manager of the Hotel and the certificate of the Manager, who was controlling the CCTV was also obtained, however Hard disc was not taken, and the Pen drive has been sent to forensics for examination; the Hon'ble Court issued the following guidelines :

“Whenever any electronic record of like nature is to be taken over, it is necessary for Police Officer to take the record under Section 65B of Evidence Act and seize it in presence of panch witnesses. The record like transcript of such record needs to be prepared by the Police Officer in presence of panch witnesses at the same time If subsequently, Police Officer wants to prepare transcript, then the same panch witnesses need to be used and in their presence material can be opened and transcript of the footage can be made. Invariably, such transcript needs to be prepared on the first occasion when material is to be seized by the Police. Such material is always necessary as the Court wants to go through the contents of CCTV footage, even at the time of consideration of bail application.

4. As for as possible hard disc or hard drive need to be collected by the Investigating Agency. The CCTV system is prepared only for one purpose and cost of hard disc or hard drive is not on higher side so it can be collected, seized by the Police. As CCTV footage stored directly on hard drive of computer is self-generated without human intervention there is no necessity to get certificate under Section 65B of the Evidence Act. However, it is always desirable to obtain at least three copies when material is viewed and heard in presence of panch witnesses and for that the certificate needs to be obtained. When hard disc is taken over, the Police statement of the person, who was controlling the system needs to be recorded. After collection of hard disc or hard drive and even collection of CCTV footage in pen drive etc. such articles should be packed in such material that packing material does not create problem for storage..”

Thus creating a transcript at the time of seizure of CCTV Footage and its attestation by panch witnesses, adds to the genuineness of the CCTV Recording evidence. Further such a transcript can be taken into account even at the stage of Bail Applications, as laid down above. Preparing 3 copies of the footage, ensures a backup of such evidence, which can be used in case it gets destroyed by any reason, for example by a simple reason of a scratch on Compact Disc, after being played.

Proving the authenticity of the footage is still be a complex process, especially in cases where the footage has passed through multiple hands before being presented in court. Undoubtedly CCTV footage has become an essential component of the Indian judicial system, offering reliable and objective evidence that can significantly influence legal outcomes. While courts in India increasingly rely on CCTV footage to deliver justice, challenges related to the quality, authenticity, and privacy of the footage must be addressed. As technology continues to evolve, it is crucial for the Indian legal system to adapt, ensuring that CCTV footage is used responsibly and effectively in the pursuit of justice.

¹² 2019 SCC OnLine Bom 1357

