



# WhatsApp Chats in Matrimonial Disputes

## High Court's Analysis:

Case: M.P. No. 3395/2023 Madhya  
Pradesh High Court



# ADMISSIBILITY OF WHATSAPP CHATS AS EVIDENCE

## WIFE'S ARGUMENTS

- Illegally obtained
- Violation of privacy

## HUSBAND'S ARGUMENTS

- Relevant to prove adultery
- Section 14 of the Family Courts Act

## SECTION 14 OF THE FAMILY COURTS ACT

Allows family courts to admit even otherwise inadmissible evidence

## RIGHT TO PRIVACY

Not absolute; must be balanced against other rights

## CHATS ADMISSIBLE

(Order of the Family Court upheld)

## High Court's Analysis:

# WhatsApp Chats in Matrimonial Disputes

Case: M.P. No. 3395/2023 Madhya Pradesh High Court

## **Background of the Case**

- **Parties Involved:** Husband filed for divorce under Section 13 of the Hindu Marriage Act, citing cruelty and alleging adultery by the wife.
- **Evidence at Issue:** The husband submitted WhatsApp chats between the wife and a third person as proof of the alleged affair.
- **How Evidence Was Obtained:** Through a special app installed on the wife's phone without her knowledge, which forwarded chats to the husband's device.
- **Wife's Objection:** Raised in Family Court when husband tried to mark chats as exhibits. Family Court allowed it, prompting wife to file this miscellaneous petition before the High Court.

## **Legal Arguments by the Parties**

### Wife's Counsel Contended:

- **Violation of Privacy:** Evidence was obtained without consent, infringing upon Article 21 of the Constitution (Right to Privacy).
- **Illegality of Method:** Breach of Sections 43, 66, and 72 of the Information Technology Act.
- **Cited Precedents:**  
Rayala M. Bhuvaneshwari v. Nagaphanender Rayala (AP HC)  
National Lawyers Campaign v. UOI (Delhi HC)  
Ram Talreja v. Sapna Talreja (MP HC)

### Husband's Counsel Argued:

- Chats are relevant to establishing adultery.
- Section 14 of the Family Courts Act allows reception of otherwise inadmissible evidence if relevant.
- **Cited supportive judgments:**  
Preeti Jain v. Kunal Jain (Rajasthan HC)  
X v. Y (Punjab & Haryana HC)

## Court's Detailed Analysis:

### 1. Section 14 and 20 of the Family Courts Act, 1984:

- Authorizes Family Courts to admit any information or document, even if not admissible under the Indian Evidence Act, as long as it assists resolution.
- Section 20 gives the Act overriding effect over contrary laws.

### 2. Section 122 of the Indian Evidence Act:

- Prevents disclosure of marital communications, but allows it in matrimonial cases.

### 3. Right to Privacy v. Right to Fair Trial:

- Acknowledges that **right to privacy** is fundamental (citing **K.S. Puttaswamy**), but not absolute.
- Where **privacy and fair trial** clash, fair trial may prevail (**supported by Sahara India Real Estate Corp. v. SEBI**).
- **Court refers to Sharda v. Dharmpal (SC)** to show that the right to privacy can be limited in matrimonial cases for the sake of justice.

### 4. Illegally Collected Evidence Can Be Admitted:

- Citing **R.M. Malkani v. State of Maharashtra**, court says illegally collected but relevant evidence can still be received.
- The court draws from multiple High Court and Supreme Court judgments to support its view

## Clarification on Previous Contradictory Rulings:

- The court reviewed previous decisions (e.g., Anurima Abha Mehta, Ram Talreja, Abhishek Ranjan), holding that:  
These judgments failed to consider **Sections 14 and 122**.
- Therefore, those decisions were passed **sub silentio or per incuriam (inadvertently)**, and **do not bind the present case**

## Guidelines for Family Courts

1. Evidence can be received if it may assist resolution, irrespective of source.
2. **Admitting evidence ≠ endorsing or relying on it:** Final weightage to be determined at trial.
3. Family Courts should adopt strict scrutiny and caution:
  - Evaluate authenticity, trustworthiness, and accuracy.
  - Conduct in-camera proceedings if evidence is sensitive or personal.
  - Admission of evidence does not immunize unlawful collection – aggrieved parties can pursue civil/criminal action against the one who procured it.

## Final Judgment

- Family Court's order allowing WhatsApp chats as evidence is upheld.
- Miscellaneous petition dismissed.
- The judgment clarifies the law on admissibility of private electronic evidence in matrimonial disputes.



दृष्टा चिह्निया