

News

Can WhatsApp conversations be admitted as evidence in family courts despite privacy concerns? Responses from the MP High Court



The Court decided that the right to a fair trial must take precedence over the right to privacy.

According to a ruling by the Madhya Pradesh High Court, family courts have the authority to consider evidence in matrimonial cases, including WhatsApp conversations, even if the spouse's privacy was violated in their collection.

While permitting a husband to present his wife's WhatsApp conversations as proof of her adultery, Justice **Ashish Shroti** made the statement.

The Court cautioned that if evidence is excluded on the grounds of privacy violation, Section 14 of the Family Court Act will be deemed null and void.

The Court emphasized that Section 14 allows for the violation of the right to privacy.

It should be kept in mind that Family Courts were created to handle what are essentially delicate, private disputes pertaining to divorce, the restoration of marital rights, the legality of children, guardianship, custody, and access to minors. These matters, by their very nature, involve private, intimate, and intimate matters and concerns. Therefore, it is readily predictable that the evidence that is requested to be presented in the majority of cases that are heard by the Family Court will pertain to the private affairs of the individuals involved, the Court stated.

Even though the evidence may not be admissible under the Indian Evidence Act, the court may still hear it if it believes it will help resolve the problems amicably, according to Section 14 of the Family Courts Act.

Regardless of how evidence is gathered, the High Court noted that the basic principles of public justice and a fair trial would require that it be accepted if it is pertinent.

Furthermore, the Bench ruled that no constitutionally guaranteed fundamental right is absolute and that the right to privacy may have to give way if it clashes with the right to a fair trial.

"A litigating party undoubtedly has the right to privacy, but that right must give way to the opposing party's ability to present material that it deems pertinent to the case in order to support its position. A litigating side is given a fair opportunity to present pertinent evidence in court, as is a well-established principle of a fair trial. The Bench stated that although the right to privacy is fundamentally a personal one, the right to a fair trial has broader implications and affects public justice, which is a more general cause.

It reasoned that denying a litigating party the chance to present evidence at the very threshold would undermine the cause of public justice by denying them a fair trial.

"To state otherwise would be to disregard the specific statutory provision found in Section 14 of the Family Courts Act, which states that evidence would be admissible regardless of whether it is admissible under the Evidence Act in general."

These conclusions were made by the Bench in response to a request submitted by a woman contesting the family court ruling permitting her husband to use her WhatsApp conversations

as proof of infidelity during a divorce proceeding.

The husband was said to have installed an app on her phone that allowed him to access these talks by sending her discussions to his phone.

The wife claimed that these conversations were inadmissible since the husband could not rely on the unlawfully obtained evidence and the bug had been planted on her phone without her permission, infringing on her right to privacy.

The Court maintained the family court order and dismissed the argument.

But after acknowledging the broad authority granted by Section 14, the High Court also stipulated the following protections that family courts must follow when addressing this clause:

- When making a decision, the Court must exercise extraordinary caution, even if a particular piece of evidence has been entered into the record. Such evidence must be rigorously and carefully scrutinized for legitimacy and genuineness.
- The Family Court may limit the number of parties present in court when considering evidence if it determines that the information is improper, embarrassing, or otherwise sensitive for any of the parties, whether or not they are litigating. It may hold proceedings behind closed doors to avoid embarrassing any individual or party;
- All proceedings must be carried out precisely within the parameters of appropriateness and decency, and no party should be allowed the chance to fabricate evidence in order to create a spectacle.
- Any party who feels wronged by the production of such evidence may file the proper legal action, either in civil or criminal law, against the party who obtained the evidence illegally; however, the filing or continuation of such legal action does not render the evidence inadmissible in the Family Court.

Shubhendu Singh Chauhan, an advocate, represented the wife.

Advocate Sankalp Sharma represented the husband.