



DELETING WHATSAPP CHATS AND DESTRUCTION OF EVIDENCE IN INDIA

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ABSTRACT

Increased use of digital communication has led to a transformation in the creation, sharing, and storing of information. There are several types of messenger services; however, WhatsApp has become one of the most popular apps in India for all kinds of personal, professional, and business communication. WhatsApp conversations are often relevant in criminal cases, civil litigation, matrimony cases, and business matters. As a consequence, WhatsApp messages have started to be introduced in courtrooms as evidence. In connection with increased use of electronic data, there emerges a legal issue – how can it be addressed if a person deletes his/her WhatsApp chat that could be potentially used in some legal case or investigation? While a person enjoys the right to dispose of personal messages, questions can arise if digital data is destroyed to avoid proving the truth. This problem becomes even more complex because there is the possibility of retrieving deleted messages technologically, although in some cases, they might be irretrievable. This article attempts to analyse the relevance of WhatsApp messages as digital evidence and looks into whether there is any possibility of deletion of WhatsApp messages resulting in the destruction of evidence in India. Furthermore, it also addresses the problems that arise when attempting to prove intention in such cases and the difficulties involved in restoring deleted information, along with considering the issues regarding privacy versus justice.

Keywords: WhatsApp Messages, Digital Evidence, Electronic Records, Destruction of Evidence.

INTRODUCTION

Technology has impacted almost all aspects of human existence, including how people interact. Interactions that took place via letters, notes, or physical meetings are now being done using

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smartphones and other forms of technology. It means that a large percentage of conversations made in the current time are now being done electronically. This includes various things such as messages, photos, videos, voice messages, and even documents, which form part of day-to-day interactions.¹

Of all the digital interaction platforms available today, WhatsApp has been the most popular messaging app in India. People use it when communicating with their family, friends, workmates, clients, and other business associates. It is being used so commonly that people end up having various conversations concerning finance, employment, agreements, relationships, and other business dealings on WhatsApp.

The popularity of WhatsApp has also impacted the legal process. Nowadays, courts and law enforcement agencies receive various types of information transmitted via WhatsApp on a regular basis. Such communications could help determine what is going on in most cases. The text of one single message may prove the existence of an agreement, liability for something, threaten others, or provide a fact useful to law enforcement officers. Thus, WhatsApp conversations serve as a great source of electronic data in contemporary legal processes.²

However, the issue of digital evidence is associated with numerous complications, which were not encountered before the era of physical documents became obsolete. Unlike traditional information sources, electronic communications could be erased within seconds. One can delete one or all messages in a conversation, clear a whole device, or use disappearing messages that erase conversations at the end of a certain period of time.³

The issue becomes particularly important when a deleted chat contains information that may be relevant to a dispute or investigation. Suppose a person deletes messages after learning that legal proceedings may be initiated. Suppose an individual removes a conversation that contains information regarding a financial transaction, contractual negotiation, or alleged offence. In

¹ National Judicial Academy, 'Admissibility of Electronic Evidence' (presentation, 2019–20) National Judicial Academy Website <https://nja.gov.in/Concluded_Programmes/2019-20/P1163_PPTs/2.%20Admissibility%20of%20Electronic%20Evidence.pdf> accessed 17 June 2026

² Ibid

³ Stephen Mason and Daniel Seng (eds), *Electronic Evidence and Electronic Signatures* (5th edn, Institute of Advanced Legal Studies 2021) 34–39 <https://sas-space.sas.ac.uk/9564/1/9781911507246_min.pdf> accessed 17 June 2026

such circumstances, the deletion of digital communications may affect the ability of courts and investigators to establish facts and determine responsibility.⁴

This raises a fundamental question. Should the deletion of a WhatsApp chat be viewed merely as an exercise of personal choice, or can it amount to the destruction of evidence? The answer is not straightforward because people delete messages for a variety of legitimate reasons. Many users remove old chats to free storage space, protect privacy, or organise their devices. Therefore, it would be unreasonable to assume that every deletion is motivated by a desire to conceal information.⁵

However, there might also be instances where the deletion takes place to ensure that the investigator, court, and/or the other party cannot gain access to pertinent information. Here, the act of deleting digital communications will have relevance within the scope of the law. The difficulty here will be in determining whether the deletion is innocent or intended as an attempt at concealing something. The issue has become even more pressing in view of how modern society increasingly relies on digital communications.

Thus, the controversy concerning WhatsApp chats that have been deleted touches on a larger issue in relation to the global legal systems. Modern technology has facilitated communication, but it has also presented many challenges related to the preservation, veracity, and availability of evidence. As India progresses in the use of digital technologies, the manner of handling deleted electronic data will be very significant in the development of evidence law.⁶

WHATSAPP CHATS AS ELECTRONIC EVIDENCE

Evidence is essential to any court process. The courts use evidence to determine facts, ascertain the truth, and dispense justice. Conventional evidence included witness testimonies, writings, agreements, and documents. In the contemporary world, however, electronic records have become equally significant. With the rising popularity of smartphones and communication

⁴ Shristi Agrawal, 'Admissibility of Whatsapp Chats as Evidence in Indian Courts' (2023) 5 IJLLR <<https://www.ijllr.com/post/admissibility-of-whatsapp-chats-as-evidence-in-indian-courts>> accessed 17 June 2026

⁵ Tejas Karia, Akhil Anand and Bahaar Dhawan, 'The Supreme Court of India re-defines admissibility of electronic evidence in India' (2015) 12 Digital Evidence and Electronic Signature Law Review <<https://journals.sas.ac.uk/deeslr/article/view/2215>> accessed 17 June 2026

⁶ Naiya Patel, 'An Examination of Digital Evidence and Its Relevance for Legal Proceedings' (2026) 7 International Journal of Advanced Legal Research 10 <<https://ijalr.in/wp-content/uploads/2026/05/ARTICLE-NAIYA-PATEL.pdf>> accessed 17 June 2026.

technologies, an ever-increasing amount of digital data has been generated that could later be used in legal cases.

WhatsApp chats are examples of the types of electronic communications frequently found in modern court processes. An exchange of messages on WhatsApp may include admissions, promises, threats, instructions, negotiation, or acknowledgement of certain facts. In civil cases, there may be messages that demonstrate the discussion that leads to an agreement. In divorce cases, the contents of chats may shed light on the nature of the relations between the parties. In criminal cases, the contents of communications can aid in comprehending the course of actions and identifying participants.

It should also be noted that apart from the textual exchanges made on WhatsApp chats, these communications also have metadata attached to them. For instance, data about when a message was sent, received, and read by the recipient is available for analysis. Such data may assist law enforcement officials in determining whether communications are authentic and help them create a chronology of events. Therefore, electronic evidence usually gives a more comprehensive account than traditional evidence might provide.

Increasingly, people carry out their private and business activities in digital formats. This means that digital communications have become a necessary part of life in the current environment. Hence, courts cannot simply ignore this form of correspondence just because it is done in digital format. Rather, law enforcement officials have to take into account the changing modes of correspondence.

While they can be highly useful, there are several challenges posed by WhatsApp conversations. As opposed to documents, electronic files are susceptible to modification, editing, and deletion. Messages can vanish instantly, while conversations can be edited or removed from the phone. This poses many issues as far as preservation and authenticity go. In cases where a pertinent conversation has been deleted, it will be difficult to know whether the evidence has been deleted accidentally or deliberately. With the use of electronic devices becoming commonplace today, evidence must be preserved digitally as well. With WhatsApp

being used increasingly in court cases, the issue of deletion of such conversations will probably be raised again and again in the future.⁷

WHATSAPP CHATS AND THE QUESTION OF DESTRUCTION OF EVIDENCE

The relevance of WhatsApp messaging in legal disputes has also prompted a discussion about the implications of deleting digital communications. One might argue that it is quite obvious whether or not there is destruction of evidence. It can be assumed that deleting a message that can be treated as evidence means destroying such evidence. However, the law provides for a much more complicated situation. Not all deleted messages can be considered evidence, nor does each case of deletion involve a wrongful intention to conceal something.⁸

Deleting digital messages is a daily activity performed by people using electronic devices. There can be various reasons why some messages should be deleted, including a lack of space or a need to preserve one's privacy. In most situations, deleting digital messages has nothing to do with any legal issue. Thus, it would be unjustified to treat all deleted WhatsApp chats as evidence destruction.⁹

This problem takes an even more serious turn if the deleted conversation involves the sharing of relevant information that will play some role in a court case. What happens if people talk about a transaction using WhatsApp, and then one of them deletes the chat after a disagreement occurs? Similarly, what if an individual involved in illegal activities deletes important messages that can provide information about the incident in question? In either case, the deletion of the chat can have implications for the determination of the truth.¹⁰

Courts always regarded the destruction and concealing of evidence as behaviour that has the potential to affect the administration of justice. In a court of law, evidence plays an important part in establishing the truth, resolving competing claims, and arriving at an objective decision. When relevant information is removed, it may make fact-finding quite complicated. What is

⁷ Legal Bites, 'Digital Evidence: Collection, Preservation and Forensic Analysis' (28 October 2024) <<https://www.legalbites.in/forensic-law/digital-evidence-collection-preservation-and-forensic-analysis-1074008>> accessed 17 June 2026

⁸ Ibid

⁹ National Academy of Direct Taxes, 'Electronic Evidence: Collection, Preservation and Appreciation' (10 August 2017) <https://nja.gov.in/Concluded_Programmes/2017-18/P-1026_PPTs/7.Electronic%20Evidence.pdf> accessed 17 June 2026

¹⁰ National Judicial Academy, 'Appreciation of Electronic Evidence by the Courts' (2017) https://nja.gov.in/Concluded_Programmes/2016-17/P-1007_PPTs/3.%20Appreciation%20of%20Electronic%20Evidence.pdf accessed 17 June 2026

particularly important here is that the problem is not only the fact that the information was removed, but the fact that the removal made it difficult to understand the events in question.¹¹

However, digital evidence is quite different from the evidence of the old type. If a piece of paper has been burned, it will never reappear. However, the deleted WhatsApp chat might survive as it might remain in the form of backup copies, screen grabs, cloud storage, and/or even on the phones of the participants.¹² As we see, deletion is not necessarily equated to the destruction of evidence. Nonetheless, there might be an attempt to delete certain evidence on purpose before its submission during litigation.¹³

Whether the deletion of WhatsApp chat has any legal implications is dependent on the specific circumstances related to the case at hand. Timing of deletion, nature of the dispute, the importance of the information and the actions of the person responsible for deletion are some of the factors to consider when deciding whether deletion was routine or deliberate.¹⁴

THE CHALLENGE OF PROVING INTENT BEHIND DELETION

The problem that arises concerning WhatsApp messages is one of demonstrating the intention behind deleting them. The intention is important in cases where the conduct needs to be legally sanctioned or prosecuted. Even though it is likely to prove the act of deleting the messages, the reasons for doing that will prove to be much more complicated.¹⁵

Various events and factors may lead to the deletion of digital data. Someone might have erased the conversations in an attempt to organise a device. It is possible for deletion to occur due to technical errors. Some people delete chats regularly as they are not aware that they might become important in the future. Therefore, there is no reason to presume that they had some intentions of concealing the information.

However, there are situations in which such actions can be viewed with suspicion. For instance, there may have been cases when people decided to delete some particular conversations

¹¹ Bharatiya Nyaya Sanhita, 2023 s 241 (India)

<<https://www.indiacode.nic.in/bitstream/123456789/20062/1/a202345.pdf>> accessed 17 June 2026

¹² Massachusetts Guide to Evidence, s 1119, 'Digital evidence' <<https://www.mass.gov/guide-to-evidence/section-1119-digital-evidences>> accessed 17 June 2026

¹³ The National Law Review, 'The Duty to Preserve Electronic Evidence' (17 August 2009) <<https://natlawreview.com/article/duty-to-preserve-electronic-evidence>> accessed 17 June 2026

¹⁴ Duane Morris, 'Spoliation of Electronic Evidence Can Lead to Death-Knell Sanctions' (2 December 2008) <<https://www.duanemorris.com/articles/article3064.html>> accessed 17 June 2026

¹⁵ Harvard Cyber law Clinic, 'Model Analysis: Spoliation' <<https://cyber.harvard.edu/digitaldiscovery/library/spoliation/spoliationanalysis.html>> accessed 17 June 2026

following complaints and investigations. Likewise, the choice of deleting conversations regarding certain matters while preserving others may raise concerns.

Nevertheless, suspicion does not equal evidence, and the courts are not interested in assumptions. In this regard, investigators should consider the context of the situation and the digital information available to try to learn more about the cause of the deletion. The timing of the deletion, type of communication, statements by witnesses and experts, forensic evidence, and others could be used to distinguish an innocent mistake from a deliberate one.

The complexity of proving intentions is another problem related to electronic communication data. Technology may help to prove that certain messages were deleted, but it might not be able to tell what the motive was for that. The motives behind actions are complicated; people have multiple reasons for each move. Thus, a person may want to ensure their privacy or hide embarrassing information, at the same time recognising that these messages could be valuable in upcoming cases.

RECOVERY OF DELETED MESSAGES AND DIGITAL FORENSICS

Several people might think that deleting a chat in WhatsApp results in the deletion of any trace of the discussion. However, information can persist even when it has been deleted from an electronic device. This is why digital forensics has become a very significant tool in modern investigations based on electronic evidence.¹⁶

Digital forensics relates to a number of actions taken by specialists, such as the identification, collection, preservation, analysis, and recovery of information from electronic devices. Using these techniques, investigators will be able to recover messages, recover bits of conversations, analyse the activities of devices, and more.

Several criteria influence the ability to retrieve deleted WhatsApp conversations. Such criteria include the kind of gadget used, backup copies available, the period that has elapsed since the messages were deleted, and whether there is any new material written over the deleted information. Investigators can retrieve deleted data and restore conversations that could have

¹⁶ Oxygen Forensics, 'WhatsApp Forensics – Extraction Methods' <<https://www.oxygenforensics.com/en/resources/whatsapp-forensics/>> accessed 17 June 2026

been assumed lost. Other times, it becomes impossible to retrieve the deleted material due to its permanent erasure.¹⁷

The fact that deleted data could be retrieved leads to interesting discussions relating to the definition of the destruction of evidence. In instances where the deleted messages are recovered through forensics, should one consider that there was actual destruction? While there could be those who insist that there cannot be any destruction if the messages are still recoverable, others may hold the view that the efforts to delete the messages still count even in case there was no actual destruction of evidence.¹⁸

Digital forensic techniques also assist in authenticating electronic records. The process involves analysing metadata, timestamps, backup records and device logs in order to establish whether the communications are authentic and if they have been tampered with. This can offer helpful support to courts trying to establish the legitimacy of digital evidence.

Notwithstanding the benefits that digital forensics can offer, it cannot be said that it offers a panacea to all evidential problems. Recovery efforts can be very costly, time-consuming and technically challenging. The investigative bodies may lack the resources to recover the information, while courts might face difficulties in dealing with the expert evidence.¹⁹ Besides, there is ongoing development in encryption technologies, which makes it difficult to access digital communications.

PRIVACY RIGHTS AND THE ADMINISTRATION OF JUSTICE

When the issue of WhatsApp message deletion is being discussed, evidence is not the only aspect that should be considered. It must be borne in mind that contemporary smartphones store huge volumes of private data about one's social relations, financial condition, beliefs, health, and everyday activities. As a consequence, individuals regard their electronic communications

¹⁷ AMR Digital Forensics, 'Can Forensic Investigation Recover Deleted Data?' (3 October 2024) <<https://www.bakersfieldforensics.com/press/can-forensic-investigation-recover-deleted-data>> accessed 17 June 2026

¹⁸ Harvard Cyber law Clinic, 'Model Analysis: Spoliation' <<https://cyber.harvard.edu/digitaldiscovery/library/spoliation/spoliationanalysis.html>> accessed 17 June 2026

¹⁹ Radina Stoykova, 'Digital evidence: Unaddressed threats to fairness and the presumption of innocence' (2022) 65 Computer Law & Security Review 1 <<https://www.sciencedirect.com/science/article/pii/S0267364921000480>> accessed 17 June 2026

as something rather personal, and they do have the right to have some control over the data stored in their devices.²⁰

Taking all this into account, WhatsApp message deletion could be easily regarded as a fully proper step. Individuals delete conversations for the protection of confidential information, to avoid unnecessary publicity of their private affairs, or for the sake of better control over their online activity. Privacy is crucial in a democratic society when people need to preserve their individuality. One must not be required to keep every message sent simply because it is stored electronically.²¹

Yet, privacy cannot be considered an absolute idea. Evidence is essential in the judicial process for ascertaining the truth and reaching a fair verdict. Sometimes, access to evidence can be necessary for proving or disproving whether a crime has been committed or a claim raised has merit. Allowing people to delete useful evidence without any penalties will make the work of courts harder.

Finding a solution to the problem at hand is not easy since it involves the resolution of conflicting interests. One of the sides is the freedom of individuals to control their own private correspondence. The other side is the necessity of ensuring that relevant evidence will always be there for use when cases come up. Both interests must be taken into account. A solution that considers all chat deletions as suspicious will infringe upon the right to privacy; a solution that overlooks deliberate destruction of evidence will compromise the work of the court.

An ideal legal framework would thus have to take into consideration the context in which deletion takes place. Deletion done for purely private reasons would, therefore, not need to lead to any repercussions. It is only in situations where a person knows for sure that communications are liable to become part of a legal dispute that further action may be necessary. The increasing relevance of electronic evidence to the courts means that this consideration will only grow in

²⁰Ruth Gavison, 'Privacy and the Limits of Law' (1980) 89 Yale Law Journal 421
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2060957> accessed 17 June 2026

²¹James Q Whitman, 'The Two Western Cultures of Privacy: Dignity Versus Liberty' (2004) 113 Yale Law Journal 1151 <<https://yalelawjournal.org/article/the-two-western-cultures-of-privacy-dignity-versus-liberty>> accessed 17 June 2026

importance going forward. The evolving nature of technology will necessitate that courts grapple with various issues in the future relating to privacy and evidence.²²

LEGAL AND PRACTICAL CHALLENGES IN INDIA

There are several issues in regard to electronic evidence that have become challenging for the Indian judiciary system due to the increasing usage of digital technologies.²³ Despite the adaptation of courts to new technological conditions, the fast development of digital solutions is still making the process of investigation, presentation, and examination of electronic evidence rather difficult.²⁴

The first issue concerns the reliability and authenticity of electronic evidence, since, unlike traditional documents, messages can be easily copied, edited, and modified. Hence, in the context of the judicial proceedings, it is essential to prove that the evidence submitted to the court is real and valid. In some cases, such a proof can be quite problematic due to partial deletion or unavailability of the full communication record.²⁵

Another issue associated with modern digital technologies is the encryption function of some applications. WhatsApp's end-to-end encryption significantly increases the privacy of a user by protecting his/her communication against any unauthorised access. However, in this way, the process of investigation may be complicated since investigative agencies have trouble receiving access to the necessary digital records of the communications in question.

The growing trend in using disappearing message services poses another difficulty. Disappearing message services allow for messages to self-destruct after a certain time. While they may offer users more control over their communication, they might also lead to a loss of

²² UNESCO, 'New UNESCO-IAP Guidelines on Digital Evidence Collection' (2 October 2025) <<https://www.unesco.org/en/articles/balancing-privacy-and-justice-new-unesco-iap-guidelines-digital-evidence-collection>> accessed 17 June 2026

²³ Chhattisgarh State Judicial Academy, 'Electronic Evidence: It's Legal Effect, Admissibility in Court, Scope and Challenges' (One Day Divisional Seminar, Bilaspur, 13 April 2024) <https://csja.gov.in/pdf/study_material/Electronic%20Evidence%20Its%20Legal%20Effect,%20AdmissibilityIn%20Court,%20Scope%20And%20Challenges.pdf> accessed 17 June 2026

²⁴ Ashish Shahi, 'Challenges in Digital Forensics and Cyber Evidence in Indian Courts' (2025) 7 Indian Journal of Law and Legal Research 5377 <<https://www.ijlrr.com/post/challenges-in-digital-forensics-and-cyber-evidence-in-indian-courts>> accessed 17 June 2026

²⁵ Victoria Joshy, 'How to Prove Electronic Evidence: Legal Framework, Challenges and Judicial Interpretation' (2025) 7 Indian Journal of Law and Legal Research <<https://www.ijlrr.com/post/how-to-prove-electronic-evidence-legal-framework-challenges-and-judicial-interpretation>> accessed 17 June 2026

information that will eventually become relevant to a case. There is, therefore, a question of how to treat these messages from an evidentiary point of view.

Insufficient resources make it difficult to deal with digital evidence properly. The proper analysis of such evidence usually requires some level of specialisation, technical equipment, and money. While one agency may have everything required to deal with digital evidence, another may lack these resources.

Another difficulty involves public awareness. There is much ignorance about the fact that WhatsApp messages may become evidence at some point. Consequently, valuable information is often deleted without understanding its potential evidentiary value. The importance of raising public awareness about the legal value of the data stored on the device can help avoid conflicts over deleted evidence and promote better preservation practices.²⁶

From the analysis above, one can conclude that the problem of WhatsApp deleted chats cannot be resolved by relying only on the power of legal regulations. A joint effort from all stakeholders is required to ensure successful outcomes since digital communication is becoming more popular each day.²⁷

RECOMMENDATIONS

The increasing prominence of electronic communication underlines the necessity for a practical approach towards dealing with any deleted electronic record. In formulating any law governing such records, both the practicalities of modern technology and the principles of justice must be considered.

Firstly, efforts towards increasing awareness about the potential evidential value of digital communications must be encouraged. Many people fail to comprehend that any message shared via WhatsApp can be useful in future legal cases. Education and legal awareness programs can serve to make citizens aware of the importance of retaining electronic communication where there is an issue of legal concern.

²⁶ National Institute of Justice, 'Improving the Collection of Digital Evidence' (30 November 2021) <<https://nij.ojp.gov/library/publications/improving-collection-digital-evidence>> accessed 17 June 2026

²⁷ UNESCO–IAP Guidelines on Digital Evidence Collection (n 27)

Secondly, there is an increased necessity for the investigative authorities to enhance their digital forensic abilities. Considering the prevalence of electronic evidence, the importance of being able to access digital data will increase.

Third, clearer guidelines regarding the preservation of electronic evidence would help reduce uncertainty. Individuals, businesses, and institutions would benefit from greater clarity regarding their responsibilities when digital information becomes relevant to a legal dispute or investigation. Consistent standards can promote fairness and improve confidence in the legal system.

Finally, courts should continue adopting a case-by-case approach when evaluating deleted WhatsApp chats. The legal consequences of deletion should depend upon the surrounding circumstances rather than any automatic presumption of wrongdoing. Such an approach ensures that innocent conduct is not unfairly penalised while deliberate attempts to conceal relevant information receive appropriate scrutiny.

A balanced framework based on fairness, technological understanding, and respect for individual rights is likely to provide the most effective response to the challenges associated with digital evidence in contemporary India.

CONCLUSION

With the emergence of digital communication, the form and concept of evidence in modern-day legal proceedings have undergone a massive shift. What were previously perceived as regular conversations on platforms such as WhatsApp have become increasingly central to criminal cases, civil matters, matrimonial cases, and business-related disputes. In that regard, issues related to the retention and destruction of WhatsApp chats have become increasingly relevant in the legal world.

Whether the deletion of a WhatsApp chat can be construed as the destruction of evidence cannot be easily determined since many elements need to be taken into account when discussing such a phenomenon legally. The relevance of the message, the situation of its deletion, and the intentions of the person who deletes it will all play an important part in determining the legal implications of deletion. It is not necessary to treat every deleted chat as some kind of illegal act.

On the other hand, efforts made deliberately to get rid of information that might be necessary for legal proceedings are very disturbing. For the administration of justice, evidence is crucial, and its obstructive deletion would prevent the discovery of the truth. It is here that the distinction between normal deletion and obstructive action becomes imperative.

The issue of deletion of WhatsApp messages represents part of a wider change taking place within legal systems around the world. The role of technology in the creation, storage, and transmission of data necessitates that legal traditions adapt to meet new challenges. Issues such as privacy, cyber forensics, encryption, and preservation of digital evidence will become increasingly relevant as society embraces technology through electronic communication.

In conclusion, the future of digital evidence in India depends on the ability of the law to strike a balance between the need to uphold civil liberties and justice. Increased knowledge, improved forensic tools, and well-defined legislation can go a long way towards solving the problems posed by deleted digital data, while at the same time ensuring privacy and fair play.