

Computer print-outs can be admitted as documentary evidence

In an unprecedented ruling, a TADA court at Mumbai has held that computer printouts can be admitted as documentary evidence. The ruling was delivered on 6.7.2000 by the Judge Shri Pramod Kode before whom the CBI examined an official of the Mahanagar Telephone Limited (MTNL), to corroborate its charges against film star Sanjay Dutt of having made an international call from his residence to Dubai - based Aneesh Ibrahim, brother of Dawood Ibrahim.

During the examination of the witness, computer print-outs containing the called numbers were produced as exhibits. These print-outs were taken from magnetic tapes on which the Bandra Telephone Exchange had recorded outgoing and incoming calls, to places within and outside India in the year 1993 . The investigating officer had collected only the print-outs and not the magnetic tapes. The tapes were preserved for a period of three years by MTNL and later destroyed following the usual practice.

The prosecution contended, that the computer print-out was primary evidence within the meaning of section 62 of the Indian Evidence Act, as print-outs were made by a uniform process and, therefore, deserved to be exhibited. These were the result of records contained in the magnetic tape automatically made at the exchanges regarding respective calls made or received. Such print-outs were not copies of the matters recorded on the magnetic tape and could, therefore, be exhibited. The defence argued that the print-outs produced in the court were not original print-outs taken for the purpose of making bills. The primary evidence related to the alleged telephone call was the magnetic tape which had not been produced before the court. The defence also pleaded that the investigating agency had failed to collect the magnetic tape, and therefore, no case was made out under section 63 to permit secondary evidence. Hence, the document cannot be marked as exhibit.

The court observed that the print-outs are not a copy of the magnetic tape because the tape by itself cannot be termed as a document. It does not fall within the definition of a document under section 3 of Indian Evidence Act. Evidence is something which can be perceived by the human senses. Matter, which cannot be perceived by the human senses by a Judge cannot fall within the definition of the word 'document' or the word 'evidence'. Even if the magnetic tape had been produced before the court, the court would have been unable to directly perceive i.e. to read, hear or see the matter stored on it and consequently, would have been unable to act upon the said matter. The print-outs, on the other hand constitute the direct evidence of the matter. They were taken by technicians from the computer in the presence of the witness and after satisfying that at the relevant time the computer was properly working. It was therefore, ruled that the print-outs were primary evidence.