

Bail Slip:- The Accused namely 1. Altaf Ahamad, S/o. V. Anwar Basha and 2. Irshad Ahamad S/o. V. Anwar Basha were directed to be released on bail by order dated 4.3.2014 made in M.P.No.1/14 in CrI.R.C.No.255/14 of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

CrI.R.C.No.255 of 2014

1. Altaf Ahamad
2. Irshad Ahamad ... Petitioners/ Accused

vs.

State Rep. By
The Deputy Superintendent of Police
Cyber Crime Cell
Crime Branch CID
Chennai - 2 ... Respondent / Complainant

Criminal Revision filed under sections 397 (1) and 401 Cr.P.C. to set aside judgment of the learned III Additional Sessions Judge, Chennai dated 27.02.2014 in C.A.No.164 of 2013 confirming the order in C.C.No.9220 of 2010 on the file of the learned XI Metropolitan Magistrate, Saidapet dated 13.08.2013.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.C.Iyyapparaj
Government Advocate (CrI.side)

O R D E R

This revision challenges the judgment of the learned III Additional Sessions Judge, Chennai dated 27.02.2014 passed in C.A.No.164 of 2013.

2. The case of the prosecution is that A1 and A2, who are brothers, were causing loss to the complainant by sending correspondences through e-mail. On 17.07.2004, the second accused with intention of spoiling the business of the complainant logged into the VSNL Internet account herbal@vsnl.net by using a dial-up connection, hacked the inbox

of the complainant's e-mail ID "shakthi6@md3.vsnl.net.in" and sent an e-mail stating that complainant has stopped doing business. Again on 13.09.2004, the second accused, impersonating the complainant Sivakumar, hacked the inbox of the complainant's e-mail Id and sent another e-mail informing a change of password. Thereby both the accused committed offences punishable under Section 419 Cr.P.C and Section 66 of the IT Act, 2000 r/w.34 IPC.

3. The prosecution examined 11 witnesses and marked 31 exhibits and 14 Material Objects. No witnesses were examined on behalf of the defence and one exhibit was marked. The trial Court in rendering a finding of conviction, sentenced the petitioners to undergo 2 years S.I. and fine of Rs.5000/-, i/d. 6 months S.I., for each of the offences u/s.419 IPC and Section 66 of the Information Technology Act and 2 years S.I. for offence under Section 304(A) IPC. The trial Court directed that sentences to run separately. The appeal of the petitioner in C.A.No.71 of 2009 was dismissed and sentence imposed by the judgment of the XI Metropolitan Magistrate, Saidapet was confirmed. Thereagainst, this revision.

4. Heard learned counsel for petitioner and learned Government Advocate (Crl.side) and also perused the reply statement filed by the respondent.

5. Though several contentions are raised before us, there is no dispute that the material computer records in support of the prosecution case have not been certified in keeping with Section 165B of the Evidence Act. The Hon'ble Supreme Court in Anvar P.V. Vs. P.K.Basheer and Others [(2014) 10 Supreme Court Cases 473] has informed that provisions of Section 165 B are mandatory. The entire prosecution case rests on computer records. Where a mandatory requirement of law stands not complied with, the prosecution must fail.

This Criminal Revision shall stand allowed. The judgment of learned III Additional Sessions Judge, Chennai, passed in C.A.No.164 of 2013 on 27.02.2014 shall stand set aside.

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Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gpa

To

1. III Additional Sessions Judge
Chennai

2. XI Metropolitan Magistrate
Saidapet

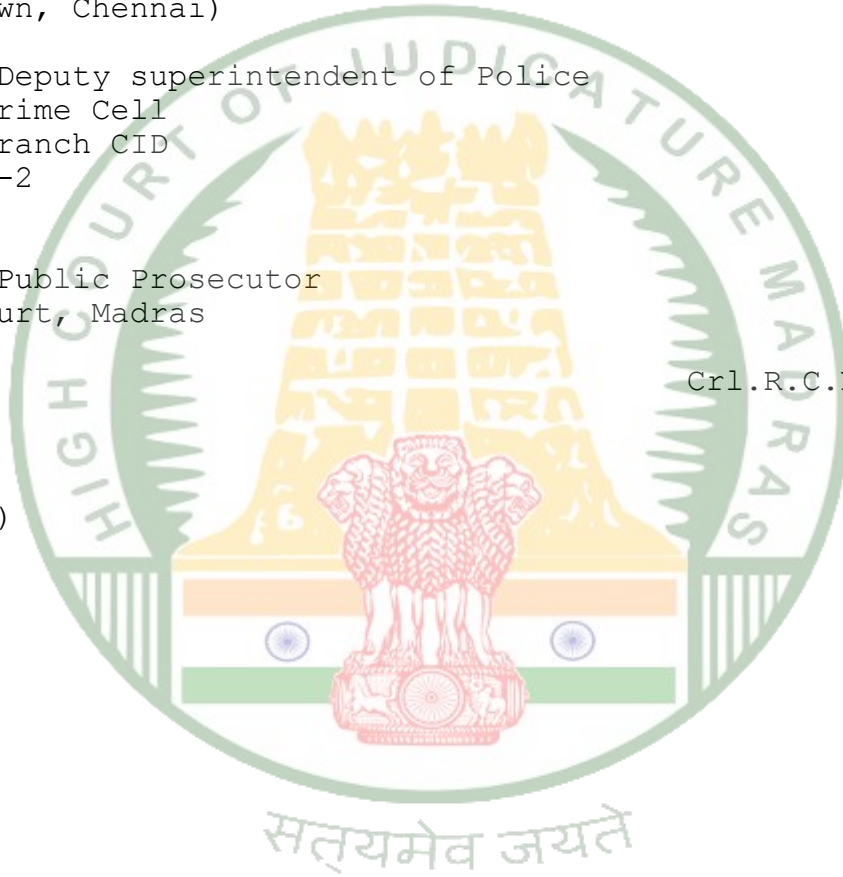
3. The Chief Metropolitan Magistrate
Egmore, Chennai
(now functioning at Allikulam commercial Complex
Park Town, Chennai)

4. The Deputy superintendent of Police
Cyber Crime Cell
Crime Branch CID
Chennai-2

5. The Public Prosecutor
High Court, Madras

Crl.R.C.No.255 of 2014

SCD (CO)
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