

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1184 OF 2016

ORDER:

Heard both sides.

2) The revision petitioner is the de facto complainant in C.C. No.558 of 2011, which is filed for the offence punishable under Section 67 of the Information Technology Act read with Section 509 IPC. She relied on the e-mails said to have been transmitted technically by the so-called accused who is respondent herein by retrieving the same said to have been filed and those were placed in the Court record way back. In *Re Sevugaperumal and others*¹, it was held that it is the duty of the Court to reconstruct where original record is misplaced in its end that is reiterated by the Apex Court in *State of UP vs Abhai Raj Singh & another*².

3) The petition in CrI.M.P. No.136 of 2016 in C.C. No.558 of 2011 is filed to receive fresh copies of the misplaced e-mail messages already submitted to the Court, which is ended in dismissal. In fact, the party filed the documents and those were lost in the Court custody. Undisputedly, an enquiry is pending against the concerned staff of the Court. It is the duty of the Court, pending such enquiry, to order for reconstruction pursuant to the above expression supra, for said purpose to receive the documents as both sides are duty bound to produce whatever the copies to reconstruct. Thereby, the impugned order is set-aside and the trial Court is directed to

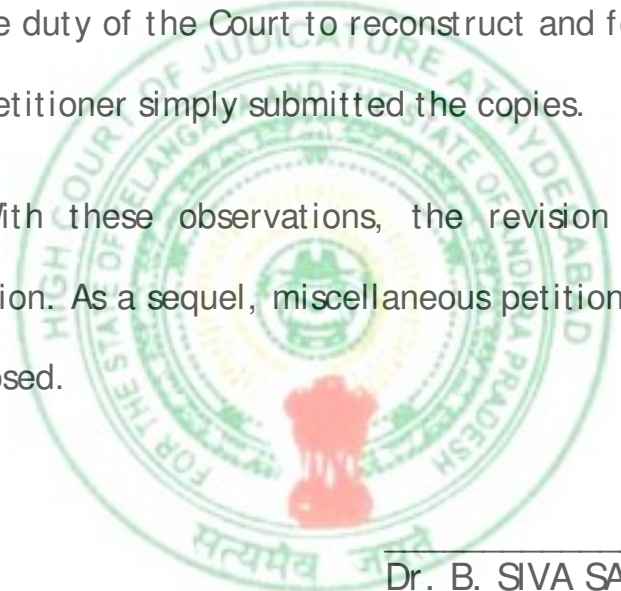
¹ AIR 1943 Madras 391

² CrI.A. Nos.1243 and 1244 of 1997 dated 08.03.2004.

reconsider the same in ordering reconstruction after hearing both sides.

4) Any objections as to the admissibility is left open to decide with reference to Section 65 (b) (iv) of the Act, from any certification that can be produced even at this stage or at the time of marking and not at the time of filing, apart from the presumption available for more than five years old electronic record, that is to decide whether the same is available to get without proof of original, though it is not shown here and when the same produced before the Court, it is the duty of the Court to reconstruct and for that purpose, the revision petitioner simply submitted the copies.

5) With these observations, the revision is disposed of before admission. As a sequel, miscellaneous petitions if any pending shall stand closed.

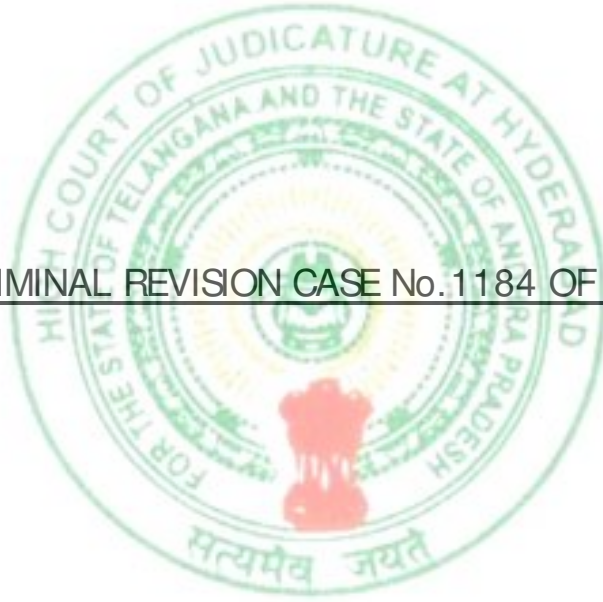


Dr. B. SIVA SANKARA RAO, J

Dt.30.01.2017
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Date:30.01.2017

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