

CD's are Documents as per Evidence Act, holds Supreme Court of India

CDs are documents and can be considered as evidence under law: SC

The Supreme Court has ruled that a compact disc (CD) is a document under Section 3 of the Indian Evidence Act, 1872. The Court also held that a CD has to be exhibited/played by the trial court to enable the public prosecutor to admit or deny its genuineness under Section 294 of the Code of Criminal Procedure (CrPC).

The decision was rendered by a Division Bench of PC Pant and Dipak Misra JJ. in an appeal against the decision of the High Court of Punjab and Haryana in the case of Shamsher Singh Verma Vs. State of Haryana.

The appellant accused is on trial for molestation of his niece and is currently lodged in jail. He had sought to rely on the recording of a conversation between his wife and son, and the father of the victim. The appellant had moved an application Section 294 of CrPC to get the CD played in the court for preserving a copy of the text contained, and therein for further communication to the Forensic Laboratory for establishing its authenticity. The application had, however been rejected by the trial judge. The High Court had affirmed the order passed by a Special Judge.

The question before the Supreme Court was whether the Special judge was correct in denying the application to play the CD so that its genuineness could be considered and established. Relying on the various decisions of the Supreme Court, the Court interpreted Section 3 of the Indian Evidence Act to hold that a CD is a “document” and no need to make an application u/s 294 of Cr. PC.

“In R.M. Malkani vs. State of Maharashtra, this Court has observed that tape recorded conversation is admissible provided first the conversation is relevant to the matters in issue; secondly, there is identification of the voice; and, thirdly, the accuracy of the tape recorded conversation is proved by eliminating the possibility of erasing the tape record.

In Ziyauddin Barhanuddin Bukhari vs. Brijmohan Ramdass Mehra and others, it was held by this Court that tape-records of speeches were “documents”, as defined by Section 3 of the Evidence Act, which stood on no different footing than photographs.

In view of the definition of ‘document’ in Evidence Act, and the law laid down by this Court, as discussed above, Court held that the "compact disc is also a document.”

The Court then proceeded to hold that since CD is a document under Section 3 of the Evidence Act, it is not necessary for the court to obtain admission or denial on a document under subsection (1) to Section 294 CrPC personally from the accused or complainant or the witness. It held that the endorsement of admission or denial made by the counsel for defence, on the document filed by the prosecution or on the application/report with which same is filed, is sufficient compliance of Section 294 CrPC. The court also turned down the contention of the respondent that the petition has been filed to prolong the trial.

“In our opinion, the courts below have erred in law in rejecting the application to play the compact disc in question to enable the public prosecutor to admit or deny, and to get it sent to the Forensic Science Laboratory, by the defence. The appellant is in jail and there appears to be no intention on his part to unnecessarily linger the trial, particularly when the prosecution witnesses have been examined.

Therefore, without expressing any opinion as to the final merits of the case, this appeal is allowed, and the orders passed by the courts below are set aside.”