

U6/151415/2016

Police Headquarters

Thiruvananthapuram

Dated 21/09/2016

CIRCULAR No. 17/2016

Sub :- Taking of CCTV footage and call records as evidence in prosecution of cases-
Instructions issued- Reg

The Hon'ble Supreme court clearly held in ***Tomaso Bruno and another v. State of Uttar Pradesh*** reported in (2015) 7 SCC 178 held that:

" With the advancement of information technology, scientific temper in the individual and at the institutional level is to pervade the methods of investigation. With the increasing impact of technology in everyday life and as a result, the production of electronic evidence in cases has become relevant to establish the guilt of the accused or the liability of the defendant. Electronic documents stricto sensu are admitted as a material evidence. Secondary evidence of contents of document can also be led under Section 65 of the Evidence Act. Production of scientific and electronic evidence in Court as contemplated under Section 65-B of the Evidence Act is of great help to the investigating agency and also to the prosecution.

It was also held that :

Non-production of CCTV footage, non- collection of call records (details) and sim details of mobile phones seized from the accused cannot be said to be mere instances of faulty investigation but amount to withholding of the best evidence. It is not the case of the prosecution that CCTV footage could not be lifted or a CD copy could not be made.

Omission to produce CCTV footage which is the best evidence, raises serious doubts about the prosecution case. The trial Court as well as the High Court ignored this crucial aspect of non-production of CCTV footage. The trial court and the High court erred in

relying upon the oral evidence of PWs 1 and 13 who claim to have seen the CCTV footage and they did not find anything which may be of relevance in the case .

It was also held by the Hon'ble Supreme court that failure to produce CCTV footage which would have proved whether accused were present in hotel at material time, created serious deficiency in prosecution case, It was further held that the courts below drew wrong interference by believing, investigating agency's version that footage had been viewed but nothing relevant was found footage being the best evidence, ought to have been brought on record ". The Hon'ble Supreme Court of India in the above case gave benefit of doubt to the accused and conviction was reversed and the Hon'ble Court acquitted the accused.

In view of the findings of the Hon'ble Supreme Court , it is directed that all the investigating officers and supervisory officers should give special attention to collect/seize the CCTV footages which may be helpful to prove the presence and involvement of the accused in a crime. Similarly Call Records (details) may lead to the detection of the case during the investigation of a case. These evidence should be produced before the Court as evidence in the court prosecution cases.

It is also appropriate to mention here that seizures should be proper and statements of seizure witnesses must also be taken. Forensic/expert opinion must also be taken.

W.. 21/9/2016
(Loknath Behera IPS)
State Police Chief

To
All Officers in List B for necessary action

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" " : CAs to All Senior Officers in PHQ
: Circular Book