

Section 65: Tampering with computer source documents.

Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

When the ingredients of the section are analysed it become clear how to make out a case under this section? The culprit shall have mensria (*knowingly or intentionally, and* should 'conceal' meaning to hide or to take away from the view or steal, or 'destroy' meaning causing destruction or deletion, or 'alter' meaning to make changes, and thus the culprit with mensria shall *conceal, destroy or alter any 'computer source code'* then it is an offence under section 65 IT Act. Source code means *'the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form'*. There are many computer programming languages like C, C+, Java, .Net, ASP etc. A set of commands written by using one of these computer programming languages is computer source code.

```
/**
 * Simple HelloButton() method.
 * @version 1.0
 * @author john doe <doe.j@example.com>
 */
HelloButton()
{
    JButton hello = new JButton( "Hello, wor
    hello.addActionListener( new HelloBtnList

    // use the JFrame type until support for t
    // new component is finished
    JFrame frame = new JFrame( "Hello Button"
    Container pane = frame.getContentPane();
    pane.add( hello );
    frame.pack();
    frame.show(); // display the fra
}
```

To make out a case under this provision the typical narration of the complaint will be as follows; *"To SHO, ...PS, sir, I have XYZ Company and I have hired around 100 employees. We all divided into groups and developed a computer application with name 'ABC' by using C+ language working for last one year. While this is on we came to know that one of employees resigned from the company and while leaving he has take the programmes developed at our company and made alterations and claiming as if he has developed on his own. With that I have suffered loss. Hence it is requested for taking necessary action"*. When these kinds of complaints are reported then the section applicable to register a case is section 65 Information Technology Act.

Section 65 – standard operating procedure (SOP)

The standard operating procedures (SOPs): During the course of investigation the following verifications shall be made and electronic evidences shall be gathered.

- The foremost thing shall be establishing the ownership of the complainant on computer programme (source code) that was allegedly stolen and/ or tampered.
- Ownership on the source code can be established by verification that whether the complainant has Copy Rights on that programme or not, if yes ownership is established with such copy rights, if not the computer programme life cycle shall be verified.
- Computer programme life cycle is the course of development of the application over a period of time. While developing coding of a programme employees would be divided into groups, and some groups would develop coding and such different pieces of coding (modules) may be integrated and lastly tested. This course of

development of a programme may be written in the form of comments which are facilitated by any programming language.

- Ownership on the source code can also be established with the technology that was used while developing a software programme. This means what is the programming language i.e., C or Java or ASP that was used in the development of programme. If the complainant's application is in ASP and the suspect has developed his programme in different programming language like C++ then the programme logic, may be identified. If the technology and programme logic are different then case may not be made out.
- What kind of front end? What is the backend data base can also be verified.
- Further the Investigating Officer can also recover supposed to be the original programme from the complainant, and he can also recover the alleged stolen and tampered version from the alleged accused, and forward both to an expert for comparison and report.
- On getting report and if the report confirms the original and tampered version of accused/ accused's company then the case is established and accordingly necessary further action can be taken against the alleged accused.
- Further in these cases the fact, as to, how the source code was taken away shall also be proved. Whether it was transmitted out through e-mails or copied on to portable media may also be verified and such electronic portable media may also be recovered in pursuance of the confession of the accused under the cover of a mediator report. If the source code was sent out through e-mails, then the connected e-mail IDs and their association with the suspected people will become evidences to established the case.

- The recovered electronic portable media shall also be forwarded to the Forensic Science Laboratory (FSL) under a Letter of Advise and an analysis report may be obtained.

If any laptop was used for stealing the source code such laptop shall be recovered at the instance of the accused or otherwise. The laptop shall be forwarded to FSL for analysis.

- If stealing of the source code is by former employees of the **complainant's** company then the appointment letters, non disclosure agreements (NDAs) etc may also be collected to prove that the **accused was in fact worked in the complainant's company. To this** effect examination of HR (Human Resource) Manager is required.
- Examination and recording the statements of the complainant, and also the colleagues like team leads, team members of the accused persons shall also be done.
- Certificate from Authorities of Copy Right, certificates of registrar of companies (ROC) depending on the requirement of the case can also be collected.

Thus the case can be established with required oral, circumstantial, electronic evidence.
