

In the High Court of Punjab and Haryana at Chandigarh.

CRM-M-39268-2015

Date of Decision: 20.11.2015

Ashok Bhalla

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. K.S. Jetley, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 26.10.2015.

Learned counsel for the petitioner has submitted that petitioner has been falsely involved in this case. In-fact the call details of the members of the raiding party including shadow witness, complainant and Duty Magistrate were liable to be preserved to enable the petitioner to put up his defence that he had been falsely involved in this case by the raiding party in collusion with each other, as the concerned company would not maintain the record beyond one year. In support of his arguments, learned counsel for the petitioner has placed reliance upon **Suresh Kumar Vs. Union of India 2015 (3) RCR (CrI) 340**, wherein it was held as under:-

“That electronic records are admissible evidence in criminal trials is not in dispute. Sections 65A and 65B of the Indian Evidence Act make such records admissible subject to the fulfilment of the requirements stipulated therein which includes a certificate in terms of Section 65B(4) of the said Act. To that extent the appellant has every right to summon whatever is relevant and admissible in his defence including electronic record relevant to finding out the location of the officers effecting the arrest. Be that as it may we do not at this stage wish to pre-judge the issue which would eventually fall for the consideration of the Trial Court.

All that we are concerned with is whether call details which the appellant is demanding can be denied to him on the ground that such details are likely to prejudice the case of the prosecution by exposing their activities in relation to similar other cases and individuals. It is not however in dispute that the call details are being summoned only for purposes of determining the exact location of the officers concerned at the time of the alleged arrest of the appellant from Yashica Palace hotel near the bus stand. Ms. Makhijamadea candid concession that any other information contained in the call details will be of no use to the appellant

and that he appellant would not insist upon disclosure of such information. That in our opinion simplifies the matter in as much as while the call details demanded by the appellant can be summoned in terms of Section 65B of the Indian Evidence Act such details being relevant only to the extent of determining the location of officers concerned need not contain other information concerning such calls received or made from the telephone numbers concerned. In other words if the mobile telephone numbers caller details of the callers are blacked out of the information summoned from the companies concerned it will protect the respondent against any possible prejudice in terms of exposure of sources of information available to the Bureau. Interest of justice would in our opinion be sufficiently served if we direct the Trial Court to summon from the Companies concerned call details of Sim telephone No.9039520407 and 7415593902 of Tata Docomo company and in regard to Sim No.9165077714 of Airtel company for the period 24.02.2013 between 4.30 to 8.30 p.m. We further direct that calling numbers and the numbers called from the said mobile phone shall be blacked out by the companies while furnishing such details.”

In the present case, as per the prosecution story,

petitioner was caught red-handed while accepting bribe to the tune of ₹60,000/-. After completion of investigation and necessary formalities, challan was presented against the petitioner and charges have been framed against the petitioner. During the pendency of the trial, petitioner moved an application under Section 91 of Criminal Procedure Code, 1973 seeking a direction that the call details of the raiding party including the complainant, shadow witness and Duty Magistrate dated 11.12.2014 be preserved to enable the petitioner to put his defence that the raid had been conducted by the raiding party is connivance with each other. In the present case factum of raid is not in dispute. In these circumstances, the communication if any between the police party, complainant, shadow witness and Duty Magistrate would not be relevant. In the facts and circumstances of the present case, the judgment relied upon by the learned counsel for the petitioner fails to advance the case of the petitioner.

No ground for interference is made out.

Dismissed.

November 20, 2015
kapil

(SABINA)
JUDGE