

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37619-2016 (O&M)

Date of decision: October 26, 2016.

Ashok Kumar @ Makhan @ Malhi

... **Petitioner**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Dinesh Mahajan, Advocate for the petitioner.
Ms. Rimpaljeet Kaur, Assistant Advocate General, Punjab.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith.

In the present petition, there is a challenge to the order dated 4.10.2016 by which the trial court had declined the request made by the counsel for the petitioner in the trial court for directing the Nodal Officer, Airtel Mobile Co. to preserve in advance the necessary call details regarding mobile Phone Nos.8968145206 and 7087929174. On 20.10.2016, this Court had heard the matter at the admission stage and made an interim order as the counsel for the petitioner stated that the stipulated period for deletion of the entry was likely to be over by that date. In that view of the matter, this Court asked the Nodal Officer, Airtel to preserve the details.

This order was served, according to the petitioner, on the same date on the Nodal Officer.

Perused the impugned order and the reasons recorded therein.

It is true that due to order dated 31.8.2016 made by this Court to expedite and completion of the trial within six months, the trial Judge did not allow

the request of the defence for preservation of the call details on the ground that the same is not relevant. In my opinion, the period of six months would expire in February, 2017. Apart from that, if the defence wants to have preservation of the call records of the aforesaid mobile phone numbers, the relevancy thereof could be found out only at the appropriate time and therefore, the trial Judge should not have taken the risk of deletion of the call records as then, the defence would have raised the point about deletion of the records and would have got benefited by the weakness in the prosecution case. This Court made an order on 20.10.2016 and directed preservation of the call records etc.

In view of the fact that now the call records have been preserved, and whether or not the same are relevant would be a matter to be decided at the appropriate stage in the trial, I modify the impugned order made by the trial Judge and direct that the Nodal Officer, Airtel, who was asked to preserve the records, shall preserve the call details pertaining to the aforesaid mobile phone numbers for the period from 20.10.2015 to 30.10.2015 and shall produce the same before the trial court if directed by the trial court on the request made by the petitioner.

The petition is disposed of with the above directions.

A copy of this order be given to Learned Counsel for the petitioner under the signatures of the Bench Secretary.

October 26, 2016.

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[A.B. Chaudhari]
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No