

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 313 of 2017**

Sushil Agrawal S/o Vishnu Prasad Agrawal, Aged About 42 Years R/o State Bank Colony, Tatibandh, Police Station Amanaka, Raipur, District Raipur Chhattisgarh.

---- Appellant

**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. The Station House Officer, Police Station Gol Bazaar, Raipur, District Raipur, Chhattisgarh.
3. The Station House Officer, Police Station Tikrapara, Raipur, District Raipur, Chhattisgarh.
4. Dinesh Gomasta, S/o Atul Gomasta, Aged About 35 Years Occupation-Business (Registered Transporter), R/o Ward No. 1, Bangali Camp, Kirandul, P. S. Kirandul, Distt. Dantewada (Chhattisgarh)
5. Balai Das S/o Ramani Mohan Das, Aged About 33 Years Occupation Driver, R/o West Borgaon, P. S. Parasgaon, Distt. Kondagaon (Chhattisgarh)

---- Respondents

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| For Appellant        | : | Shri Sumesh Bajaj, Advocate              |
| For Respondent/State | : | Shri R.K. Gupta, Deputy Advocate General |

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**Hon'ble Thottathil B. Radhakrishnan, Chief Justice**

**Hon'ble Shri Justice Sharad Kumar Gupta**

**Judgment on Board**

**Per Thottathil B. Radhakrishnan, Chief Justice**

**28.08.2017**

1. This writ appeal is addressed against the judgment delivered in a writ petition filed by the Appellant invoking Article 226 of the Constitution of India in relation to a criminal case, which has reached the stage of commencement of trial.
2. We have heard the learned counsel for the Appellant/writ Petitioner and the learned Deputy Advocate General.
3. It is argued by the learned counsel for the Appellant that being the accused, the Appellant is entitled to the phone call-records, having regard to the nature of the

case and his application for such purpose is yet to be considered by the trial Court, however that trial Court is proceeding with the trial. The second submission is that the prosecution has been repeatedly filing affidavits, which would tend to disclose that the contents of those affidavits are false and actuated. The learned counsel for the Appellant therefore argued that the prosecution is acting in a manner unbecoming up the role of the prosecutor. The third submission in support of the writ appeal is that the learned Single Judge has actually decided on the application for furnishing the call details and therefore, the application pending before the trial Court will become useless.

4. We do not see any reason at all for the writ petition to have even been entertained, be it an application under Article 226 or 227 of the Constitution or be it an application under Section 482 of the CrPC. Repeated scouting to the superior Court in relation to criminal cases, which have reached the stage of trial after closing of investigation, will only thwart the due flow of the criminal proceeding before a competent Court. It is within the jurisdiction of that Court to decide an application which the prosecution or the accused files. It is also within the domain of that Court to decide as to whether the prosecution or the accused is guilty of making wrong statements or false statements before the Court. These are not matters to be dealt with even by the trial Court in any piecemeal manner. They are not issues on which the matter could be repeatedly brought to the superior Court under revisional or supervisory jurisdiction. Therefore, preserving all right of the accused to his defence before the trial Court, in accordance with law, including as regards his request for the call details which may be relied on against him, this writ appeal is dismissed.

Sd/-  
(Thottathil B. Radhakrishnan)  
Chief Justice

Sd/-  
(Sharad Kumar Gupta)  
Judge