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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1404/2017 & CRL. MA. Nos. 7774-75/2017**

UMESH VERMA Petitioner

Through : Mr. Harsh Prabhakar, Mr. Anirudh
Tanwar, Advocates.

versus

STATE NCT OF DELHI Respondent

Through : Ms. Kamna Vohra, ASC
IO/SI Kamal Singh, P.S. Amar
Colony, Delhi.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **11.05.2017**

CRL. MA. Nos. 7776/2017(Exemption)

Exemption allowed subject to all just exceptions.

Accordingly, this application stands disposed of.

W.P.(CRL) 1404/2017 & CRL. MA. Nos. 7774-75/2017

The petitioner seeks preservation of CDR of two mobile telephone numbers viz. 9811988882 and 8588038535 by the concerned service provider particularly for the conversation which took place between the petitioner and the prosecutrix on 12.05.2016.

A request was made by the petitioner before the Trial Court for preservation of the CDR of the aforesaid mobile telephone numbers from November, 2014 onwards which was allowed by order dated 19.12.2015. Thereafter an application was made by the petitioner seeking further investigation in the matter, which application was either not moved or no order was passed ultimately.

The petitioner, thereafter requested the SHO of the Amar Colony Police Station on 28.07.2016 for having the CDR of the aforesaid mobile telephone numbers preserved particularly of the conversation which had taken place between him and the prosecutrix on 12.05.2016. The aforesaid request was not looked into.

Be it noted that the petitioner has been chargesheeted for offences punishable under Sections 354/506 IPC on a complaint lodged by the prosecutrix who claims to be one of the erstwhile employees of the petitioner. It has been submitted on behalf of the petitioner that even after the prosecutrix had lodged the present case, she had continued to interact with him on telephone and had even discussed personal issues with him.

It is, therefore, argued that the allegations made by the prosecutrix cannot stand the scrutiny of reason and law in as much as the prosecutrix, after having been subjected to sexual misdemeanours, would normally not have any alliance with the accused.

The request of the preservation of the CDR is for a later date than the date of the FIR or the period when the offence was committed and for which the case was reported. It is submitted on behalf of the petitioner that such record of the prosecutrix talking to the petitioner later also would go a long way in disproving the prosecution version and would come as a handy defence to him.

The petitioner, otherwise, also would be entitled to have such record preserved for his defence later. Whether such a defence is accepted by the Trial Court or not, is a matter which has to be decided/deferred to the discretion of the Trial Court.

Under such circumstances, this Court permits the respondent to have

CDR of 12.05.2016 of the aforesaid two mobile telephone numbers preserved and a transcript be given to the petitioner.

The petitioner submits that he shall not file any petition before the Trial Court seeking further investigation in the matter.

It would be open for the Trial Court to either accept or reject such a defence of the petitioner in case such defence is taken on the strength of the CDR of 12.05.2016.

The writ petition is disposed of with the aforesaid direction.

Dasti under the signatures of Court Master.

ASHUTOSH KUMAR, J

MAY 11, 2017

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