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

+ CRL.M.C. 3251/2018

NARESH KUMAR

..... Petitioner

Through: Mr.Ram Niwas Buri, Advocate.

versus

STATE (GOVT. OF NCT DELHI) & ORS

..... Respondents

Through: Ms.Manjeet Arya, APP for State
along with Inspector Samar Singh,
DIU/NW District.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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25.06.2018

Crl.M.A.11658-59/2018 (exemption)

Exemption allowed subject to all just exceptions.

Applications are disposed of.

CRL.M.C. 3251/2018

1. On an advance copy having been served, Ms.Manjeet Arya, APP for the State appears and accepts notice.
2. IO Inspector Samar Singh is present.
3. Counsel for the petitioner has handed over a copy of impugned order dated 22.06.2018 passed by the Metropolitan Magistrate-03, North District, Rohini, Delhi. It is submitted by counsel for the petitioner that the petitioner was not at all present at the godown situated at Swarup Nagar where the raid was conducted by the police. He submits that in fact, one Constable

Amit was available where the raid was conducted. He has made an application under Section 91 of Code of Criminal Procedure, 1973 for preserving the Call Detail Records (CDR) between Constable Amit having mobile No.8178596364 and complainant Mani Ram having mobile No.9793170707 and 9818985434. He submits that his application has been wrongly disallowed. Counsel for the petitioner submits that the petitioner in order to show his innocence will prove from the call detail records that he was not present at the godown at Swarup Nagar and was at his residence at Burari.

4. Per contra, it is submitted by learned APP that Constable Amit has no role to play in this case and was not present at the site. Learned APP for the State submits that two mobile numbers of Mani Ram as mentioned in the application, in fact, belonged to the godown owners. It is not disputed that Mani Ram, complainant is, in fact, an employee/guard of the owner of the godown.
5. In the facts and circumstances of this case, the order dated 22.06.2018 passed by the Metropolitan Magistrate dismissing the application of the petitioner is set aside.
6. Investigating Officer present in the Court is directed to obtain the Call Detail Records of Constable Amit having mobile no. 8178596364 and complainant Mani Ram/owners of Godowns having mobile nos.9793170707, 9818985434 for the period from 27.06.2017 to 30.06.2017 from the concerned mobile service providers and file the same before the Magistrate.

7. Since the period of one year is to expire tomorrow i.e. 26.06.2018, the Investigating Officer present in court is directed to obtain the call detail records tomorrow itself.
8. The petition is disposed of.
9. Dasti under signature of the Court Master.

VINOD GOEL
(Vacation Judge)

JUNE 25, 2018
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