

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

Date of Order: February 14, 2019

+ **W.P.(CRL) 1257/2017 & CRL.M.A.6965/2017**

RAJESH GUPTA

.....Petitioner

Through: Mr. Harsh K.Sharma, Ms.
Vaibhavit Sharma, Mr. Rohit Gaur
and Mr. Pulkit Jain, Advocates

Versus

C B I

.....Respondent

Through: Ms. Rajdipa Behura, Special
Public Prosecutor with Ms. Kriti
Handa and Mr. Philomon Kani,
Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Impugned order of 1st March, 2017 declines petitioner's application under Section 91 of Cr. P.C. vide which petitioner had sought the details of the calls made by him from his mobile phone to various persons during the period from 24th July, 2013 to 7th August, 2013. Petitioner had also sought copy of the letter of 6th August, 2013, vide which permission was granted for recording telephonic conversation of petitioner's mobile phone for a period not exceeding 60 days from 24th July, 2013.

Trial court vide impugned order of 1st March, 2017, declines petitioner's aforesaid application under Section 91 of Cr. P.C. by

observing that the case is based on information and disclosure of every call details would be contrary to public interest and that prosecution is only relying upon 155 calls and the details of these calls have been already supplied to petitioner. Trial court gives no reason for declining to supply the copy of aforesaid letter of 6th August, 2013 to petitioner.

Upon hearing and on perusal of the impugned order, I find that petitioner needs the call details for the period from 24th July, 2013 to 7th August, 2013 to show that the conversation recorded in the incriminating calls is no different from the conversation petitioner makes in the course of his business. For effective cross-examination of the witnesses, the information sought is relevant. There is no justification to deny copy of letter of 6th August, 2013 relating to permission accorded for recording of telephonic conversation of petitioner's mobile phone.

In view of the aforesaid, the impugned order is hereby set aside with direction to respondent to obtain and supply the copy of the aforesaid letter of 6th August, 2013 and call details sought, provided these documents are not destroyed. There is no justification to supply the documents which led to issuance of letter of 6th August, 2013. Let aforesaid documents and details be supplied to petitioner before the cross-examination of the relevant witnesses. The call details from petitioner's mobile phone from 24th July, 2013 to 7th August, 2013 is required to be supplied to him for an effective cross-examination of the witnesses. It is made clear that unless it is so done, the cross-examination of the relevant witnesses be not closed.

Trial court be apprised of this order forthwith.

With aforesaid directions, this petition and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 14, 2019

v

