

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
JUDGMENT DECIDED ON: 14.01.2020

+ **W.P.(CRL) 80/2020**

AMEET PARMESWARAN & ORS

..... Petitioners

Through Ms. Rebecca John, Mr. Akhil
Sibal and Mr. Gopal Sankar
Naryan Senior Advocates with
Mr. Abhik Chimni, Mr. Manav
Kumar, Ms. Aparajita Sinha,
Ms. Tara Narula, Mr. Adit
Pujari, Mr. Mayank Goyal,
Ms. Roshni Namboodiry,
Ms. Pravita Kashyap,
Ms. Deboshree Mukherjee, and
Ms. Nupur Agarwal, Advocates

Versus

COMMISSIONER OF POLICE, DELHI & ORS

..... Respondents

Through Mr. Rahul Mehra, Standing
Counsel with Mr. Amanpreet
Singh Advocates for the State
alongwith ACP Girish Kaushik
Insp. Prem Chandra and SI
Data Ram, P.S.: IGIS/Crime
Branch.

Mr. Parag P. Tripathi, Senior
Advocate with Mr. Tejas Karia,
Mr. Vivek Reddy, Mr. Pavit
Singh Katoch, Mr. Shashank
Mishra, Mr. Ravjyot Ghuman,
Ms. Ananya Das, Mr. Vinayak
Chawla, Advocates for
respondent no.3.

Mr. Sajjan Poovayya, Senior Advocate with Ms. Raksha Aggarwal, Mr. Priyadarshi Banerjee, Mr. Vihan Dang, Mr. Neel Mason, Advocates for respondent no.4.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (ORAL)

Status report has been filed on behalf of respondent no.1.

Notice was issued to respondent nos. 3 to 5. Learned Senior Counsels for respondent 3 and 4 are present. No one is present on behalf of respondent no.5.

Learned Senior Counsel for respondent no.3 submits that WhatsApp Messages are end to end encrypted and are not stored on their server once delivered. However, the chats would be available on the recipients and sender's phones.

Learned Senior Counsel for the petitioners has, however, drawn the attention of this Court to the order passed by Madras High Court in **W.P. Nos. 20774 and 20214 of 2018** dated 25.04.2019, wherein Learned Senior Counsel appearing on behalf of WhatsApp has made the following submissions;

4. Learned Senior Counsel further submitted that whenever requests are made under Section 91 of the Code of Criminal Procedure, 1973, as per the format, the following information would be furnished, such as "Basic Subscriber Information (BSI) includes phone number, name device info, App version, Start date/time, connection status, last connection date/time/IP, E-mail address, Web client data", to the Law Enforcement Agencies.

Learned Senior Counsel for the respondent no.3 after going through the above para submits that certain amendment is required in the said submission to the effect that instead of IP Address it should be last known IP Address.

Heard. In view of above facts and submissions appearing on record, the respondent no.3 is directed to preserve and furnish the following information to the investigating agency;

“Basic Subscriber Information (BSI) (includes phone number), name device info, App version, Start date/time, connection status, last connection date/time/Last known IP, E-mail address, Web client data”

Learned Standing Counsel (Criminal) for respondent no.2 submits that request has already been made to the above effect by the Law Enforcement Authority vide e-mails dated 10.01.2020 & 11.01.2020 and the procedure as prescribed to obtain information in case of emergency as given in the reply furnished by the WhatsApp has also been followed.

Learned Senior Counsel for respondent no.4 submits that so far as respondent no.4 i.e. Google is concerned, upon receipt of information from Law Enforcement Authority specifying the users data including the Google Account (e-mail address), respondent no.4 preserves the said data available to the extent.

In view of the above submission made by Ld. Senior Counsel, on receipt of basic subscriber information including e-mail account from the Enforcement Authority, respondent no.4 is directed to

preserve and furnish the data available on Google Drive to the investigating agency to the extent available.

So far as respondent no.5/ Apple is concerned, no one is present on its behalf. Ld. Senior Counsel for the petitioners submits that they do not claim any relief from respondent no.5 at this stage and it may be dropped from the array of the parties.

Heard. In view of the above submission of Ld. Senior counsel of the petitioners, respondent no.5 is dropped from the array of the parties.

Learned Standing Counsel (Criminal) submits that notice under Section 91 CrPC has been issued to The CSO, JNU Campus, The Registrar JNU Campus and The Branch Manager, State Bank of India, New JNU Campus on 06.01.2020 and again to the CSO, JNU on 10.01.2020 for providing the complete CCTV footage available to them. However, no information has been provided so far.

Heard. All the above officials are duty bound to provide and assist the investigating agency in the investigation of the case and are, therefore, directed to provide the complete CCTV footage to the Enforcement Authority at the earliest.

Investigating Officer, who is present in the Court has submitted that all efforts are also being made to summon Members of the two WhatsApp Group i.e. "Unity Against left" and "Friends of RSS" so that their mobile phones may be seized for the purpose of investigation.

Heard. Let the needful be done by the investigating officer at the earliest.

Since the matter is sensitive in nature and pertains to violence committed in the JNU Campus in which number of students and professors were assaulted and have sustained injuries and property was also damaged it, therefore, needs to be probed thoroughly and expeditiously so that such kind of incidents are not repeated in future.

In view of the above directions, passed by this Court, which answer all the prayers made by the petitioners and there is no other relief sought for or pressed, the present petition stands disposed of accordingly.

Dasti.

JANUARY 14, 2020

(Amit)

BRIJESH SETHI, J

