

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-39012-2021
Decided on : 21.09.2021

Mohit

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Saini, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 482 Cr.PC for setting aside the order dated 12.07.2021 (Annexure P-2) passed by Addl. Sessions Judge, Jhajjar vide which the application under Section 91 Cr.PC in case FIR No.40 dated 24.02.2021 registered under Sections 365, 376, 385, 511 and 34 IPC and Sections 6 and 18 of POCSO Act and Section 67-A of IT Act (Section 366-A IPC added later on) at Police Station Women, Bahadurgarh filed by him for preserving and providing CDR and location chart of the mobile numbers of the complainant and the petitioners, was dismissed.

Learned counsel for the petitioner has submitted that it is a case of false implication wherein allegations of kidnapping and gang rape have been levelled solely on the basis of a video clip and to prove his innocence, he submits that the CDR as well as the location chart of the mobile phones of the victim as well as the accused would be very essential. In support of

his application filed under Section 91 Cr.PC, learned counsel has placed reliance on the judgment of Hon'ble Supreme Court in ***Nitya Dharmannanda @ K. Lenin & another vs. Sri Gopal Sheelum Reddy also known as Dityya Bhaktananda and another (Crl. Appeal No.2115 of 2017) decided on 07.12.2017.***

Heard learned counsel and perused the material available on record including the impugned order.

The Apex Court in ***Nitya Dharmannanda's case(supra)*** has categorically held that though an accused would have no right to seek production of any documents at the stage of framing of charges under Section 91 Cr.PC, however, if the Court is prima facie satisfied that there does exist some material and that too of sterling quality, which may have been withheld by the investigating agency, then the Court would not be debarred from exercising its powers and ordering the summoning of any such material, which may be available with the investigating agency, though not having been made part of the challan.

Adverting to the case in hand, the impugned order clearly reveals that during the investigation neither the IDs nor any CDR much less location chart had been taken into possession by the investigating agency. In fact, the trial Court has rightly observed that it would be highly improper to obtain the ID and CDR of victim's phone as it would reveal her identity. Further more, the presence of accused alongwith the victim at the time when the alleged video clip was shot by the accused themselves prima facie stands proved from the said video clip itself as all the accused along with the victim are clearly visible in the same. Moreover, it may also be noticed that

CDR and the location chart would not have any bearing as the pictures can be clicked and video taken even if the mobile phone is on aeroplane mode. Hence, in this background, the CDR and location chart would be of no help to the petitioner.

As a sequel to the above, this Court does not find any illegality much less perversity in the impugned order passed by the Court below, which comes across as the same is well reasoned one.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

21.09.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No