

30.09.2022

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CRLCP 21 of 2022
in
CRM (DB) 3104 of 2022

In Re : Sanjay Malik petitioner

Mr. Abhimanyu Yadav
..... for the petitioner

Mr. R. Nandy, learned APP
Ms. S. Das
..... for the State

Report of the ADG, CID, West Bengal, is placed on record. From the report it appears the microchip with regard to a purported conversation between one of the advocates of the petitioner and the investigating officer had been handed over for the purposes of enquiry. Microchip has been forwarded to the Director of CFSL. CFSL has submitted its report which is as follows :

“Without examining the original recorder, it is not possible to opine, whether the files 1 VID-20220821-WA0002 and VID-20220831-WA003 present in the exhibit-A are authentic or not.”

This Court had also given liberty to the police to summon the advocate concerned for depositing original electronic records which is stored in his mobile phone.

Learned Counsel appearing for the petitioner submits the advocate is unwilling to hand over the mobile phone on the ground of his right to privacy.

Petitioner has alleged that the investigating agency had demanded illegal gratification.

Under such circumstances, this Court directed enquiry into the matter and gave liberty to the petitioner to produce all evidence in support of such accusation. Original electronic records, in our estimation, is the “best evidence” to prove of the conversation between the parties wherein such illegal demand was made. Presently the petitioner and his advocates are unwilling to provide the said evidence in support of their accusation. They have taken the plea of privacy.

As the petitioner who had levelled the accusation is unwilling to part with the best evidence, we are constrained to hold there is no legally admissible evidence to support the accusation levelled by him. Enquiry may be closed.

Let the matter appear for hearing on merits one week after ensuing Puja Vacation (07.11.2022).

In view of the aforesaid order, contempt application being CRLCP 21 of 2022 is dismissed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

