

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-19351-2023

Date of Decision : 20.04.2023

Guneet Singh

..... Petitioner

Versus

Anurita Chopra and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Amit Jain, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of judgment dated 08.02.2023 whereby Additional Sessions Judge, Gurugram has partially allowed appeal of the respondent and set aside order dated 24.08.2022 passed by JMIC, Gurugram whereby the Magistrate has turned down request of the respondent to preserve call detail record of petitioner qua calls to Charu Joshi.

2. Learned counsel for the petitioner *inter alia* contends that the respondent filed a petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 (for short, 'DV Act') against the petitioner. During the pendency of the said petition, the respondent preferred an application seeking direction to mobile service provider to preserve and produce call detail record of petitioner with Charu Joshi. The application came to be dismissed vide order dated 24.08.2022 passed by Magistrate.

The respondent preferred an appeal before the Appellate Court which came

up for consideration before Additional Sessions Judge, Gurugram. The Appellate Court vide impugned order dated 08.02.2023 has partially allowed the appeal of the respondent. The Appellate Court has held that call detail record of Charu Joshi cannot be ordered to be preserved or produced in Court because she is not party to litigation. The Appellate Court has further directed the mobile service provider i.e. Vodafone India Ltd. to preserve incoming and outgoing call detail record along with tower position, internet usage along with SMS received or sent from mobile No. 9811504440. The respondent was seeking preservation of call detail record of petitioner with Charu Joshi and the Appellate Court has ordered to preserve call record of petitioner qua all the calls made by him or received by him irrespective of senders or recipients of calls.

3. Learned counsel after arguing for sometime confines his prayer to modification of order to the extent that mobile company may be directed to preserve call record of the petitioner qua calls made or received from Charu Joshi and not in general because it would amount to encroaching upon privacy of the petitioner. The calls made or received by petitioner from everyone cannot be preserved and produced in Court especially when there is no criminal charge against the petitioner and prayer of the respondent was confined to communication of petitioner with Charu Joshi.

4. The Appellate Court has recorded categorically findings while partially allowing the appeal of the respondent. The Appellate Court has held that mobile company is going to preserve call details record, however, question of admissibility of evidence is yet to be adjudicated and it would be adjudicated by learned Magistrate at the time of final determination of dispute. The respondent had prayed for preservation of call record of

petitioner with Charu Joshi, thus, it does not seem to be just and fair to preserve call record of the petitioner with respect to his communication with others. This Court finds just and fair prayer of the petitioner qua modification of impugned order with respect to preservation of call details record of the petitioner in general. The impugned order is hereby modified to the extent that Vodafone Idea Ltd. shall preserve and produce record as directed by Appellate Court of the petitioner qua Charu Joshi.

5. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

20.04.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>