

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2081-2023
Reserved on: 21.11.2023
Pronounced on: 04.12.2023

Shri BhagwanPetitioner

Vs.

State of HaryanaRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurpreet Singh, Advocate for
Mr. Ramnish Puri, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

ANOOP CHITKARA J.

Aggrieved by the dismissal of the application by the Additional Sessions Judge, in which the petitioner had prayed for preserving the call details, petitioner has come up before this Court by filing the present petition under Section 401 CrPC. The application in question has been annexed as Annexure P-2 and para Nos.1 to 3 of the same are as follows:-

- “1. That the above noted case is pending before this Hon’ble Court and fixed for 26.07.2023 for framing of charge.
2. That the below mentioned call details, ID, Tower Location of JIO, BSNL and Airtel are necessary documents to prove the innocence of the accused/applicant.

The details of the said mobile numbers are as under:-

Sr.No.	Mobile No.	Company	Period
1	7988614805	Jio Mohali	06.09.2022
2	9416516878	BSNL Rohtak	06.09.2022
3	9466572416	BSNL Rohtak	06.09.2022
4	9812341760	Airtel Chandigarh	31.07.2022

3. That as per system of the telecom company all call details record are deleted or destroyed after expiry of one year until and unless they are directed by the Court for preserving the same beyond the said period of one year.
2. On the face of it, there is no reason that why call details be preserved and it is not prerogative of the petitioner that to seek preservation of any of the call details as

per his whims and offences without giving any reason.

3. In para 4(A) of the present petition, petitioner's claim is that tehrir/writing was not received at Jind, but at Assandh (Karnal) and he had conversation with Surrender Kumar who is an apprentice in the department and it was in fact on asking of the complainant, the meter was installed at the spot in question. Furthermore, a certificate duly attested by the Sarpanch was clearly seen outside the house of said person. These cannot be reasons for preserving call records. Even the concerned DySP has filed reply and preliminary stand had been taken that petitioner had concealed the real facts from the Court. It would be appropriate to mention para Nos.2 to 4 of the reply, which are as follows:-

"2. That the petitioner has concealed the true and material facts from this Hon'ble High Court. The true facts of the case are that on 06.09.2022, the complainant Jai Bhagwan S/o Balbir Singh R/o Alewa has handed over his complaint to Inspector Manish, wherein he has stated that he (complaint) had applied for taking domestic connection of electricity in his name and Shri Bhagwan foreman (petitioner-accused), posted in his village, has affixed the connection of complaint's name in the house of Rakesh S/o Shamsher R/o Village Alewa. Thereafter, complainant met Shri Bhagwan foreman on 5-9-2022 and talked with him regarding shifting of his connection in his house, upon which petitioner-accused told the complainant that he had intentionally got affixed the said connection in the house of Rakesh and he (petitioner-accused) would get register a case against complainant, on which complainant said that he had applied the meter connection in his name and asked to shift that connection in his house or to get returned this connection and why he would get affixed the meter connection of other person in his house and there is no fault on complaint's part. Thereafter, Shri Bhagwan foreman (petitioner-accused) demanded Rs. 10,000 as bribe money from complainant in lieu of shifting his electricity meter to his house from Rakesh house.

Upon which the present FIR No. 30 dated 06-09- 2022 (Annexure P-1) was registered u/s 7, Prevention of Corruption Act, 1988 (section 13 (1) (b), 13(2) of Prevention of Corruption Act, 1988 added subsequently), in Police Station, State Vigilance Bureau (now Anti Corruption Bureau), Karnal Range, Karnal.

3. That thereafter, on the application of investigating officer, the Assistant Deputy Commissioner, Jind appointed independent official witnesses viz. Sh. Ajay Kumar, Tehsildar Jind as Duty Magistrate and Duty Magistrate further appointed Sh. Pawan Kumar, Registry Clerk, Tehsil Jind as shadow witness. Raiding 4 team was constituted and after applying Phenolphthalein powder on currency notes of Rs. 10,000 (500x20 Notes), the said notes handed over to the complainant Jai Bhagwan were who was instructed to hand over Rs. 10,000 to accused Shri Bhagwan, foreman on raising his demand for the same. The shadow witness was also instructed to see and hear the conversation between the complainant and the accused and was further directed to give the appointed signal to the raiding team.

The complainant and the shadow witness acted accordingly and thereafter Shri Bhagwan (petitioner-accused), Foreman Jind was apprehended red handed on spot and Rs. 10,000 tainted money was recovered from the right hand of Bhagwan, Foreman. The hands of both the accused and

complainant were washed separately in the separate solutions which turned light pink. The recovered currency notes and the nips of hand washes were converted into separate sealed parcels and were taken into possession vide separate recovery memos which were duly signed by the witnesses. Thereafter, the accused Shri Bhagwan (petitioner-accused) foreman was arrested in the present case.

4. That on during the course of investigation, the statement u/s 164 Cr.P.C of complainant was got recorded before Sh. Dhruv Saini, Ld. JMIC, Jind, Forensic Science Laboratory, Madhuban report was obtained, which was found affirmative, relevant record pertaining to complainant application file for the installation meter (9 pages) and record pertaining to joining/posting of petitioner-accused were obtained, the scaled sight plan was got prepared, the call detail records, CAF, Tower location and Certificate u/s 65-B Evidence Act of mobile numbers 98123-41760 and 82219-01517 of complainant and accused respectively were obtained and it was found that petitioner-accused had conversed with the complainant on 2-9-2022. On 4-1-2023, Prosecution Sanction against petitioner- accused was obtained from the competent authority."

4. Analysis of the cryptic application in which no reason has been mentioned for preserving the call details and further grounds taken in the present petition, do not make out any case of direction to the concerned telecom companies by directing to preserve call details.

5. Petition dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

04.12.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.