

03.06.2024

Sl. **5**
Ct.No. 5
K.B/
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 12894 of 2024

Manoj Kumar Agarwal
Vs.
State of West Bengal and ors.

Mr. Siddhartha Lahiri
Mr. Debraj Dutta
...for the petitioner
Mr. Swapan Banerjee
Mr. Dipanjan Datta
...for the State
Mr. Sayak Chakraborty
Mr. Wrickbrata Roy
...for the private respondent nos. 5 & 6

Affidavit of service filed by the petitioner is
taken on record.

Report filed by the State is also taken on
record.

A defamation suit has been filed by the
respondent no. 5 against the petitioner being
Title Suit No. 952 of 2022 and the same is
pending in the Court of the learned 4th Civil
Judge (Senior Division) at Alipore.

In connection with the said defamation suit,
the petitioner intends to rely upon the tower
location and the call records made by the private
respondents from the mobile phone numbers
9831218631, 9339746933 and 9735848204.

The petitioner prays for a direction upon the police to preserve the call details and the tower location of the aforesaid phone numbers on 18th June, 2022.

Reliance has been placed on orders passed by this Court on 27th March, 2023 in WPA 28831 of 2022 (Pankaj Kumar Dugar Vs. The State of West Bengal & Ors.), order dated 25th January, 2024 in WPA 11830 of 2023 (Ramesh Chandra Agarwal Vs. The State of West Bengal & Ors.) and order dated 22nd February, 2024 in WPA 11820 of 2023 (Manoj Kumar Agarwal Vs. The State of West Bengal and Ors.).

Learned advocate representing the private respondent nos. 5 and 6 opposes the submission of the petitioner. It has been submitted that the privacy of the private respondents will be infringed if the call details and the tower location are directed to be preserved.

Learned advocate representing the State respondents relies upon the instruction forwarded by the Officer-in-Charge, Kalighat Police Station wherein it has been mentioned that the police being the law enforcement agency can call the telecom service provider to procure call details record along with proper certificate under Section 65(B) of the Indian Evidence Act

for the purpose of inquiry or investigation of any case by serving notice under Section 91 Cr.P.C and the order of Court. The private respondents are not connected with any criminal case currently and, accordingly, there is no requirement of preserving the call details.

It has been submitted that the respondent nos. 6 and 7 are not parties to the defamation suit.

I have heard the submissions made on behalf of the parties.

It appears that the suit which is pending in between the parties is a suit for defamation. The petitioner submits that the call details including the tower location will be required for the purpose of adjudication of the defamation suit.

The Court has already directed the Commissioner of Police, Kolkata, to preserve the CCTV footages and the call details of the petitioner's phone numbers. As the petitioner contends that similar order may be passed for preserving the call details and the tower location of the private respondents, accordingly, the Court is inclined to pass an order directing the Commissioner of Police, Kolkata to preserve the call details recording of the aforesaid phone numbers.

The details shall be preserved by the police and may be submitted before the Court as and when order is passed by the Court in the pending defamation suit.

The submission of the private respondents that their privacy may be infringed has been taken care of in this order as direction has not been passed for transferring the call details to any private party but the same may be produced before the Court as and when directed.

Steps shall be taken by the Commissioner of Police, Kolkata, keeping in mind that the date of the call details required to be preserved is 18th June, 2022 and they may be available only till the 17th June, 2024 in terms of the guidelines published by the Department of Telecommunication dated March 1, 2022 being Home/DOTEL/R/T/22/00054.

The writ petition being WPA 12894 of 2024 stands disposed of.

All parties are to act in terms of the server copy of this order duly downloaded from the official website of this Court.

Urgent certified photocopy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Amrita Sinha,J.)