



2024 : DHC : 501



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 18th January, 2024

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CRL.M.C. 402/2024**SIDHARATH @ SOMBIR****..... Petitioner****Through: Mr. Nishant S. Diwan, Advocate.****versus****STATE NCT OF DELHI****..... Respondent****Through: Mr. Yudhvir Singh Chauhan, APP for
the State with SI Madhav and SI Ramvatar,
PS: Swaroop Nagar.****CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****CRL.M.A. 1556/2024 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This petition has been filed on behalf of the Petitioner under Section 482 Cr.P.C. for a direction to preserve/produce/provide the location details of the mobile phones of all the members of the Police team, who had apprehended the Petitioner in case FIR No.821/2021 dated 23.12.2021 under Sections 186/353/307 IPC and Sections 25/27 of the Arms Act, 1959,



registered at PS: Swaroop Nagar, for the period 20.12.2021 to 23.12.2021. Challenge is also laid to order dated 12.09.2023 whereby application filed by the Petitioner under Section 91 Cr.P.C. for production of the location details was dismissed by the learned Special Judge (NDPS), North, Rohini Courts, Delhi and order dated 21.09.2023 whereby application for clarification/modification of order dated 12.09.2023 was dismissed.

4. Factual matrix to the extent necessary for adjudication of the present petition is that Petitioner was arrested in the aforementioned FIR registered on 23.12.2021 and was released on bail on 07.09.2022. An application was filed by the Petitioner under Section 91 Cr.P.C. seeking production of call location details of members of the Police team which had apprehended the Petitioner. Application was dismissed by the learned Special Judge following the judgment passed by this Court in *State v. Haripal, 2023 SCC OnLine Del 5045*. Petitioner filed an application seeking modification of the order dated 12.09.2023, which was partially allowed by directing the service provider Reliance Jio to preserve mobile location details of Petitioner's phone number 8708960464 for the period 20.12.2021 to 23.12.2021.

5. Assailing the impugned orders, learned counsel for the Petitioner urges that Petitioner is a law abiding and peace loving citizen and is innocent and the Police officials have falsely implicated him. Petitioner is 12th fail and while searching for a job, he visited the biscuit factory near Rai, Sonapat, Haryana on 21.12.2021, from where he was arrested, whereas his official arrest has been shown on 23.12.2021 and the location detail can be verified from the mobile phone location of the Petitioner. Petitioner was thus in illegal confinement by the Police and on 22.12.2021, Petitioner's father



was informed of his arrest for allegedly committing an offence under Sections 107/151 Cr.P.C. It is contended that the phone location details of the Police team which apprehended the Petitioner would prove his defence of false implication and therefore directions be issued to all concerned service providers to preserve the mobile phone location details of the raiding team.

6. Issue notice.

7. Learned APP accepts notice on behalf of the State and submits that present petition is wholly misconceived and the issue raised herein is squarely covered by the judgment of this Court in *Haripal (supra)*, against the Petitioner. He further submits that the Trial Court has already granted partial relief to the Petitioner by directing the service provider to preserve the mobile location details of his mobile number for the period 20.12.2021 to 23.12.2021 and insofar as the mobile location details of the members of the Police team which arrested him are concerned, the same cannot be provided as that would be directly encroaching upon the privacy of the Police officials and may risk and expose their identities, as held by this Court in various judgments.

8. I have heard learned counsel for the Petitioner and learned APP for the State.

9. The limited issue that arises before this Court for consideration is whether the Petitioner can insist upon preservation, production and providing of the mobile location details of the members of the Police team which arrested him, as a matter of right. Be it noted that the application filed by the Petitioner under Section 91 Cr.P.C. had two-fold reliefs:- (a) to



preserve the mobile location details of the Petitioner; and (b) to preserve/produce/provide the mobile location details of the members of the arresting team.

10. Insofar as the first relief is concerned, as rightly pointed out by learned APP, Trial Court has already granted the said relief while deciding the application of the Petitioner for clarification/modification of the order dated 12.09.2023 and in this context, relevant part of order dated 21.09.2023 reads as follows:-

“

Accused Siddarath was allegedly using number 8708960464 of Reliance Jio. Therefore, service provider Reliance Jio is directed to preserve mobile location of this number from 20.12.2021 till 23.12.2021. Order dated 12.09.2023 stands modified to this extent only. Application stands disposed off accordingly. Copy of this order be given dasti to Ld. Counsel for accused.”

11. As far as the second relief is concerned, this Court finds merit in the stand adopted by the learned APP. Co-ordinate Bench of this Court in **Krishan Pawdia v. State, NCT of Delhi, 2022 SCC OnLine Del 1758**, while dealing with a similar issue held that it would be against the interest of the Investigating Agency and its officers to direct preservation of CDRs of mobile phones of the raiding party as that may cause prejudice and risk to the personal safety and security of the Police officials and secret informers. Relevant part of the judgment is as follows:-

“7. In the present case, the members of raiding party belong to a specialized investigating agency which carries investigation in the matter of national interest, terrorism, armed dealing, drug paddling and organized criminal activities and for said purpose the members of the raiding party have to remain in touch with the secret informers. It would not be in the interest of the functioning of the investigating agency to preserve CDR of mobile phone of the raiding party as it may cause



prejudice to the personal safety/security of the police officials as well as may expose identity of the secret informers. The investigation is already completed.”

12. This Court has taken a similar view in ***Attar Singh v. State (NCT of Delhi)*, 2016 SCC OnLine Del 3907**. The Court agreed with the view of the Magistrate and the Sessions Court in revision whereby claim of the Petitioner for supply of call details of the calls made from the mobile phone of the Investigating Officer was rejected. Grievance of the Petitioner was that these calls would indicate the presence, location and activities of the Investigating Officer while the State opposed the relief sought. Relevant paragraphs of the judgment are as follows:-

“9. I have heard learned counsel for the parties at length & gone through the available records. After hearing the arguments advanced by counsel for the petitioner and the rival contention and after perusal of the order passed by the Trial Court, it appears that the petitioner is seeking direction from this Court for the supply of the call details of the calls made from the mobile phone of the investigating officer. The grievance of the petitioner is that the calls made from the mobile of the investigating officer would indicate the presence, location and the activities of the investigating officer whereas the case of the State is that in the details of mobile calls of the investigating officer, it is not suggested to be the calls relating to the present case and apart from the present case, the investigating officer being a police officer, had been dealing with other matters and activities of various other accused and with regard to the duty assigned to him. Further contention made by the prosecution is that the accused could not claim the record of various activities of the investigating officer and he has to restrict to the activity of the investigating officer in the present case only. The prosecution has claimed that accused does not have any right to have the information about the final activities of the investigating officer and that cannot be limited to the activity in the present case. So, the accused could not be said to be entitled for seeking the details of records of all the calls made or calls received from the mobile phone of the investigating officer.

10. The learned Magistrate has delivered a reasoned order for the denial of the claim of the petitioner. Similar reasoned order has also been passed by the revisional Court i.e. Court of Sessions. This Court is



not of any different view than the one taken by learned Metropolitan Magistrate as well as by the Court of Sessions. So the view of the Trial Court as well as the Court of Sessions is upheld by this Court also.

11. *Consequently, the present petition is dismissed.”*

13. In ***Haripal (supra)***, the Court was considering a batch of petitions assailing the orders passed by the learned Additional Sessions Judge directing the Investigating Officers to procure the Call Detail Records (CDRs) including tower-wise locations of all members of the raiding party and the accused. Relying on the judgments in ***Krishan Pawdia (supra)*** and ***Attar Singh (supra)***, the Court held as follows:-

“17. Having heard the learned APP for the State, perused the contents of impugned order, this Court finds no reasons to take a view, other than the one expressed in the aforesaid decisions passed by Co-ordinate benches of this Court. In this Court's opinion, procuring call detail records of the mobile phones of police officials including their tower-wise location can prejudice both their safety and privacy. The concerned police officers may be involved in dealing with cases of different nature, including sensitive or heinous cases or cases of national security, and orders, such as those impugned before this Court, can directly encroach upon the privacy of the police officials. Further, the impugned orders also have the capacity to put at risk and expose the identities of the ‘secret informers’ and risk their safety and security. Thus, the learned ASJ has not passed reasoned orders, and the same opens up windows for possibility of risking confidential information which may be brought on record through call detail records of the investigating officers and other police officials.”

14. Therefore, this Court has taken a consistent view with respect to providing/production and preservation of location details of the mobile phones of members of the Police/raiding team and this Court is not persuaded to take a different view. The orders of the Trial Court impugned herein are in consonance with the view taken by this Court and no infirmity can be found warranting an interference by this Court.



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15. I find no merit in the present petition and the same is accordingly dismissed.

JYOTI SINGH, J

JANUARY 18, 2024/shivam/kks