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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 892/2024 & CRL.M.A. 8406/2024**

VIKRAM KATHURIA AND ANR.

..... Petitioners

Through: Mr. Hemant Kumar and Mr.
Bhavishya Mohaniya, Advs.

Versus

STATE AND ANR.

..... Respondents

Through: Ms. Nandita Rao, ASC for State with
Mr. Jasraj Singh Chhabra, Adv. with
SI Reena, PS. Anand Vihar.
Mr. Manoj Taneja and Ms. Simran
Chawla, Advs. for R- 2/complainant.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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22.03.2024

CRL.M.A. 8405/2024 (exemption)

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

W.P.(CRL) 892/2024

3. The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking following relief:

A, Direct preservation of the material as provided in Annexure 13 (sealed cover) to allow for its eventual use during trial;

4. The petitioner no. 2 is the mother of petitioner no.1. The case of the prosecution against the petitioners is that they had concealed the factum of



the petitioner no.1's subsisting marriage from the respondent no.2/prosecutrix and caused her to enter into a marriage ceremony with him on 09.05.2022.

5. The learned counsel for the petitioners submits that it is case of the prosecution that in the transcript of conference call between the petitioner no.1, the prosecutrix and her sister, which has been placed on record along with the supplementary charge sheet, it has been mentioned that the factum of the petitioner being already married was made known to the prosecutrix, when they last met.

6. He submits that the call records, as well as, the location and CDRs would indicate that the petitioner no.1, the prosecutrix and her sister had last met on two occasions i.e. 12.04.2022 and 14.04.2022 at the office of the petitioner no.1 at Gyan Khand-2, Plot No. CS-3, Indirapuram, Ghaziabad. He thus, articulates his defence that it was made known to the prosecutrix and her sister about the subsisting marriage of the petitioner no.1 prior to the marriage ceremony on 09.05.2022.

7. According to the learned counsel, the call records thus, needs to be preserved to enable the petitioner to prove his case in defence though it is for the learned Trial Court to decide at the stage of framing of charge as to whether the said CDRs are required to be summoned or not, in the event an application is filed by the petitioners under Section 91 CrPC at the said stage.

8. Issue notice. The learned Additional Standing Counsel for the State, as well as, the learned counsel for the respondent no.2 accept notice.

9. The learned Additional Standing Counsel, on instructions submit that the CDRs of the location of the petitioner no. 1 and the



complainant/prosecutrix have already been preserved and the same are being filed with the supplementary charge sheet.

10. She further submits that in the interest of justice the Investigating Officer will request the Nodal Officer of the concerned service provider to preserve the CDRs and location data of the mobile numbers pertaining to the prosecutrix, her sister and that of the petitioner no.1 starting from 12.04.2022 till 09.05.2022. The statement is taken on record.

11. In view of the statement of the learned Additional Standing Counsel for the State, no further orders are called for.

12. Needless to say, that the preservation of above mentioned CDRs and location data is subject to the condition that the ultimate call with regard to the summoning, and reliance to be placed on the said data, will be taken by the learned Trial Court in accordance with law, as well as, keeping in mind the observations made in the judgment dated 26.09.2023 passed by a Coordinate Bench of this Court in CRL.M.C.4719/2023.

13. The petition along with pending application, if any, is disposed of in the above terms.

VIKAS MAHAJAN, J

MARCH 22, 2024/dss