



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42029-2024

Date of decision: 08.08.2025

Parveen

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mohit, Advocate for
Mr. Sumit Sangwan, Advocate for the petitioner.
Mr. Tarun Aggarwal, Additional Advocate General, Haryana.
Mr. B.S. Bairagi, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 Cr.P.C. seeking quashing of the impugned order dated 30.07.2024 (Annexure P-1), whereby the application filed under Section 91 of Cr.P.C. (Annexure P-2) has been dismissed by the Additional Sessions Judge, Hisar arising out of FIR No.913 dated 14.12.2023 registered under Sections 323, 506 of IPC (initially under section 34 IPC which was subsequently deleted and Section 307 IPC added during the course of investigation) at Police Station Azad Nagar, District Hisar.
2. Learned counsel for the petitioner has *inter alia* iterated that the petitioner is facing trial arising out of the FIR in question. During the course of trial, the petitioner moved an application under Section 91 Cr.P.C., for requisition of mobile call detail records and tower location details pertaining to his own mobile numbers for a specific period relevant to the incident, which is vital to establish his location and support his defence. It has been



further iterated that the said data is time sensitive and may be lost permanently unless preserved immediately. However, the Court below has dismissed the application in a mechanical and without due appreciation of the relevant facts and circumstances. Learned counsel has further iterated that the preservation and requisitioning of such electronic data is imperative as failure to do so at this stage would result in its permanent loss, thereby irreparably prejudicing the right of the petitioner to a fair trial. Furthermore, the legislative intent underlying Section 91 of Cr.P.C. is to ensure that no relevant or material evidence remains undiscovered in the process of investigation, inquiry, trial or any other judicial proceedings. The learned trial Court, however, failed to consider the settled legal position and the factual matrix of the present case. According to learned counsel, the impugned order is vitiated by non-application of mind. Moreover, no prejudice would be caused to the complainant or the prosecution if the application in hand is allowed. On the basis of aforesaid submissions, the grant of present petition is entreated for.

3. *Per contra*, learned State counsel, while opposing the present petition, submits that the impugned order has been passed by the Court below after due consideration of the facts and circumstances of the case and does not suffer from any legal infirmity warranting interference by this Court. Referring to status report dated 14.09.2024, learned State counsel has submitted that the application under Section 91 of Cr.P.C. was filed by the petitioner at a belated stage and appears to be a dilatory tactic to delay the trial proceedings as there is no version in the statement of the complainant that from which mobile number he had received call on the day of



occurrence of offence. Moreover, the request of the petitioner for call detail pertains to his own mobiles numbers which were always within his possession. Accordingly, a prayer has been made for the dismissal of the instant petition.

4. Learned counsel for the complainant has raised submission in tandem with the submission made by the learned State counsel.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. Before delving into the rival contentions, it would be germane to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***T. Nagappa vs. Y.R. Muralidhar, 2008(3) RCR (Criminal) 926***, relevant whereof reads as under:

“8. What should be the nature of evidence is not a matter which should be left only to the discretion of the Court. It is the accused who knows how to prove his defence. It is true that the court being the master of the proceedings must determine as to whether the application filed by the accused in terms of sub-section (2) of Section 243 of the Code is bona fide or not or whether thereby he intends to bring on record a relevant material. But ordinarily an accused should be allowed to approach the court for obtaining its assistance with regard to summoning of witnesses etc. If permitted to do so, steps therefor, however, must be taken within a limited time. There cannot be any doubt whatsoever that the accused should not be allowed to unnecessarily protracting the trial or summon witnesses whose evidence would not be at all relevant.”

6.1. Further, the Hon'ble Supreme Court in a judgment titled as ***Suresh Kumar vs. Union of India, 2015(3) RCR (Criminal) 340***, has held thus:

“8. That electronic records are admissible evidence in criminal trials is not in dispute. Sections 65A and 65B of the Indian Evidence Act make



such records admissible subject to the fulfilment of the requirements stipulated therein which includes a certificate in terms of Section 65B(4) of the said Act. To that extent the appellant has every right to summon whatever is relevant and admissible in his defence including electronic record relevant to finding out the location of the officers effecting the arrest. Be that as it may we do not at this stage wish to pre-judge the issue which would eventually fall for the consideration of the Trial Court.”

7. It is well established principle of criminal jurisprudence that the right to fair trial is a constitutional guarantee under Article 21 of the Constitution of India and any evidence, including electronic data, which may assist an accused in establishing his innocence, should not be excluded merely on technical or procedural grounds. It is trite law that Section 91 of Cr.P.C. can be invoked by both, the prosecution and the defence and that its application must be considered keeping in view the relevance and necessity of the documents sought.

8. In the present case, the call detail records and tower location data sought, relate to the mobile numbers of the petitioner himself and the data pertains to the date and time of the alleged incident. The relevance of such data assumes significance, especially when the accused (petitioner herein) seeks to place it in support of his plea of *alibi* or defence. Moreover, the said data, if not preserved promptly, is liable to be lost due to data retention policies of telecom service providers.

9. In the considered view of this Court, the learned Court below has failed to appreciate the settled legal position. Accordingly, the impugned order dated 30.07.2024 is unsustainable in law and deserves to be set aside.

10. In view of the above ratiocination, it is directed as under:-



- (i) The petition in hand is allowed and the impugned order dated 30.07.2024 (Annexure P-1) passed by the Additional Sessions Judge, Hisar is quashed.
- (ii) The learned trial Court is directed to take immediate steps to issue necessary directions to the concerned telecom service provider for the preservation and production of the call detail records and tower location data of the mobile numbers as sought for in the application in question. Needless to say that the admissibility and evidentiary value of the material so obtained shall be considered by the trial Court at the appropriate stage, in accordance with law. It is made clear that the instant order has been passed only to ensure the preservation of potential electronic evidence and does not express any opinion on the merits of the case.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 08, 2025
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No