

**Hearing through Video Conferencing by Cisco Webex Meeting
App**

IA No. 07/2021

Mohneesh Javed Khan Vs. State

In re:

CNR No. DLNE01-000230-2020

SC No. 17/2020

FIR No. 854/2019

PS: New Usman Pur

03.05.2021

Present: Sh. U. A. Khan, Ld. Counsel for the
applicant/accused.

Sh. Masood Ahmad, Ld. Addl. PP for the State.

Submissions are heard on the application moved on behalf of the applicant for providing copy of call detail record of the raiding team filed by the IO.

It is the plea of the counsel for the applicant that the said report is required by him for preparation of the cross-examination of the prosecution witnesses whereas it is the plea of Ld. Addl. PP for the State that record cannot be used for contradiction of the prosecution witnesses and the applicant/accused may lead the evidence by summoning and examining the witnesses from the service provider when the opportunity is provided to him after completion of the prosecution evidence.

The application moved by the accused for issuing directions for placing on file the call detail record from the service provider of the raiding team was decided vide order dt. 26.11.2020 and it was ordered that the nodal officer will preserve the record of the location of the telephone numbers mentioned in para 6 of

the application pertaining to 19.11.2019 from 09:00 am onwards and to produce the same as and when required by the Court. Later on, after filing of the present application, IO has filed the record provided by the service provider in an envelope with the court.

In support of the application, reliance is placed upon the cases of Suresh Kumar Vs. Union of India, 2015 (3) JCC Narcotics 121; Suresh Kalmadi Vs. CBI, 2015 (3) JCC 1874; State (NCT of Delhi) Vs. Nizamuddin @ Nizam, CrI. Revision Petition No. 276/2018 and Ganga Prasad @ Vicky Vs. State, CrI. M. C. No. 2467/2020.

In the case of Suresh Kalmadi (supra), the Hon'ble Court dealt with issue for calling the record of call details u/s. 91 CrPC for preparation of his defence by the accused.

The accused may prove his defence by way of cross-examination of the prosecution witnesses or by calling / summoning the witnesses in his defence evidence after completion of the prosecution witnesses.

After going through the cases and hearing the submissions, I am of the view that to prepare the effective defence, the data in regard to location of the telephone numbers of the raiding party by whom he was apprehended is necessary. Accordingly, the application is allowed and the data sent to the Court be provided to the counsel for the applicant within one week upon resumption of normal working of the Courts and the matters are ordered to take up for trials. Copy of this order be provided to the parties.

(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ/
NE/KKD/Delhi/03.05.2021