

**IN THE COURT OF III ADDITIONAL DISTRICT AND SESSIONS COURT
DHARAPURAM**

**PRESENT : Thiru. C.M.Saravanan, B.A., L.L.M.,
III Additional District and Sessions Judge,
Dharapuram.**

Saturday, the 01st day of February 2025

Crl.M.P.No.2/2024

in

S.C.No. 244/2023

1. Natraj,
2. Saravanan

.....Petitioners/Accused 1&2

/vs/

State rep. by Sub Inspector of Police,
Kangayam Station,
in Crime No. 177/2023

..... Respondent / Complainant

This Petition came before me for final hearing on 22.01.2025 in the presence of petitioners/accused counsel Mr.S.K.Kharventhan, Advocate K.M.Manivannan, Additional Public Prosecutor, appeared on behalf of the respondent/complainant and having considered the material available on record and stood over till this day for consideration, this court made the following,

ORDER

This petition has been filed U/s. 91 of Criminal procedure code.

2. The facts contained in the petition filed by the petitioners/accused 1&2 as brief as follows:-

1. The petitioners / Accused 1&2 prays that the below mentioned documents from the below mentioned authority. The below mentioned documents are necessary to cross examine the witness on behalf of petitioners/accused 1&2.

Details of Documents:-

1. Call records for Mobile No: 9003949765

For Period : 20.04.2023 to 24.06.2023

Name : Velusamy Gounder, S/o. Subbaiah Gounder,
2/523, Elavandi Salai, Kethanur, Tiruppur.

2. Call records for Mobile No : 8760111000

For Period : 20.04.2023 to 24.06.2023

Name : Kamaraj P, S/o. Ponnusamy, 13/30,
Vilankurichy Road, Cheran Managar,
North Vilankurichi, Coimbatore.

Documents to be summoned from Authority:-

Nodal Officer, Bharti Airtel Limited, No:42/147 & 44/146, Santhome High Road, Rosary Church Road, Mylapore, Chennai – 600 004.

3. The facts contained in the counter statement of the respondent/Complainant :-

1. This plea of the petitioners/accused 1&2 is not sustainable in law.

2. For the cross examination in this case by the petitioners/accused 1&2, the call details of the mobile number of the witnesses Velusamy 9003949765 and the mobile number of Investigation Officer of the case Mr.P.Kamaraj 8760111000 are requested to be provided the call service provider from 20.04.2023 to 24.06.2023.
3. Petitioners/accused 1&2 does not mentioned in this petition specifically for what reason and for what purpose the above details are required. This petition filed without stating specific reasons is not maintainable in law. Only if the reasons are mentioned, the request of the petitioners/accused 1&2 can be considered whether it is suitable for this case or not.
4. And witness Velusamy is not an eye witness in this case. The aforesaid did not testify that the petitioners/accused 1&2 were involved in this crime. The said person was mentioned in the inquiry list as a witness who was present during the post-mortem. In this situation, the call records of his mobile phone are unnecessary and, in the absence of direct evidence that the defendants in the case are involved in the crime, requesting the release of his call records against his will is an act that violates his personal rights and freedoms.
5. Also the call records of the investigating officer of this case Mr.P.Kamaraj from 20.04.2023 to 24.06.2023 of his mobile phone are also not tenable according to law. An investigating officer can learn a lot of confidential

information during the investigation of the case. Also, if the call records are presented, there is a risk of knowing the details of various other important case information. Also the demand for disclosure of mobile phone details of the Investigating Officer is detrimental to the investigative nature of the case and is not in the interests of justice. Also, requesting the call records of any person without the consent and consent of the person concerned without any direct relation to the criminal act of the case is an act that affects his privacy and this petition is not sustainable in law.

4. The points for consideration is, whether the petition is deserved to be allowed or not ?

(4.1) Heard both sides. The learned counsels appearance of the petitioners would submit that for the purpose of cross examination of the witnesses on behalf of the first and second accused, the petition mention documents are necessary and hence prays to call for the call records pertaining to mobile number 9003949765 belongs to one Velusamy gounder for the period from 20.04.2023 to 24.06.2023 and the call records of the mobile number 8760111000 belongs to one Mr.Kamaraj. Hence the learned counsel prays to call for the above said documents from the Bharathi Airtel Ltd.

(4.2) Per contra, the learned public prosecutors in the case content that the reason for call for the above said documents of not mentioned by the petitioner in the

petition. The said velusamy not an eye witness and he is mentioned as inquest witness and hence the call records pertaining to his mobile number is irrelevant to the case. Further it is argued that the other mobile number in which the petitioner state is the mobile number the investigation officer in this case. If at all the call records are called for, the secret informations regarding the investigation of other cases would reveal. The investigation officer entitled to keep the informations he received at the time of investigations as secret.

Therefore the learned public prosecutor argued that the records mentioned in the petitions can not be called for and prays to dismiss the petition.

(4.3) The learned counsel for the petitioner would contend that there was an conversation between the witness and the investigation officer in this case which is not admitted by the prosecution in this case. Hence in order to prove the said facts, the petition mentioned documents are very essential.

(4.4) Considering the facts and circumstances the petitioner/Accused shall be given sufficient opportunity to set up their defence in the case filed against them. The reasons stated by the counsel for call for the said document to the Court is acceptable.

(4.5) This court in view that mere call for the said documents to the Court will not reveal any secret informations pertaining to the investigations and the investigation officer is liable to submit all the information he collected to the

Court. Therefore this petition is allowed. No order as to cost. In fact the important facts were intimated to the investigation officer by the witness Mr.Velumasmy and the same should be prove.

This Order is directly dictated to the typist by me and directly typed by him in a computer and corrected and pronounced by me in a open court, this the **01st Day of February 2025.**

III Additional District and Sessions Judge,
Dharapuram.

List of witnesses :

Petitioner side Evidence:

--Nil--

Petitioner side Documents:

--Nil--

Respondent side Evidence:

--Nil--

Respondent side Documents:

--Nil--

III Additional District & Sessions Judge,
Dharapuram.

Order in
M.P.No.2/2024

in

S.C.No. 244/2023

Date : 01.02.2025

III ADJ, DPM