
(2021) 01 RAJ CK 0165

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 3923 Of 2020

Abhimanyu Singh And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 20-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 91, 482

Citation : (2021) 01 RAJ CK 0165

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Dharendra Singhm, Rajeev Bishnoi, Farzand Ali, Gaurav Singh, R.S. Choudhary, Suresh Choudhary

Final Decision : Disposed Of

Judgement

In wake of onslaught of COVID-19, abundant caution is being taken while hearing the matters in Court.

The petitioners have preferred this misc. petition under Section 482 Cr.P.C. seeking quashing of order dated 02.11.2020 passed by learned Additional

Chief Judicial Magistrate, Jaitaran, Pali.

Learned counsel for the petitioners submits that they have moved an application under Section 91 of Cr.P.C., requiring call details and tower location

of particular eyewitnesses namely Ida Ram and Oma Ram.

Learned counsel for the petitioners further submits that there is a right of the defence to seek production of any document or thing by satisfying the

Court that the same are necessary and desirable for the purpose of adjudication during trial. He also submits that the petitioners had sought the call

details in their representation during investigation, but unfortunately, due to the mistake of the investigating officer, the call details have not been taken

on record by the investigating officer and the same is likely to prejudice the case of defence.

Learned GA cum AAG however, opposed the submissions on the ground that taking of call details and tower location was not required at the time of

investigation, and therefore, they were not taken. However, he candidly admits that in case the same is required then it shall be required to be

preserved in light of the TRAI Regulations and then whenever the learned trial court records its satisfaction, such information can be disclosed to the

Court, if the court so decides.

Learned counsel for the complainant-respondent No.2 submits that at the stage of Section 91 of Cr.P.C., calling for any evidence shall be detrimental

to the cause of the prosecution and whatever has been investigated upon is before the Court and creating any fresh evidence at this stage, is not

justified.

This Court, after hearing learned counsel for the parties, do not wish to delve into the discretion of the learned trial court to call for any document or

thing, which is there in Section 91 of Cr.P.C., and therefore, this Court leaves it to discretion of the learned trial court whether the document or the

tower location or the call details are required or not. However, invoking the powers under Section 482 Cr.P.C., this Court directs the learned court

below and the concerned authority to ensure preservation of the call details in question and keep them in a sealed cover in courts custody to be used

by the Court, in case, such requirement is found by the learned trial court at any subsequent point. This order shall not prejudice the trial on merits for

either sides.

In view of the above, the present petition is disposed of.

Stay petition also stands disposed of.