

Court No. - 10

Case :- APPLICATION U/S 482 No. - 5954 of 2022

Applicant :- Amitabh Thakur

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.

Counsel for Applicant :- Deepak Kumar, Nutan Thakur

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Ms. Nutan Thakur, learned counsel for the petitioner, and Mr. Rao Narendra Singh, learned A.G.A. for the State.

2. Present petition under Section 482 Cr.P.C. has been filed seeking quashing of the order dated 20.08.2022 passed by learned Special Judge, MP/MLA Act, Lucknow in Application No.28 of 2022 in Sessions Trial No.1676 of 2021 arising out of FIR No.0309 of 2021 under Sections 120B, 167, 195A, 218, 306, 504, 506 IPC, Police Station Hazratganj, Lucknow.

3. Aforesaid application came to be filed before the trial Court for a direction to the prosecution/state to preserve certain Call Detail Records (C.D.Rs.) of officers, whose names have been mentioned in the said application, which includes names of Additional Chief Secretary (Home), Director General of Police, Director General of Police, Recruitment, Additional Director General, Women Cell, U.P., Police Commissioner, Lucknow, Police officers/officials of Police Station Gomti Nagar and Hazratganj etc., total 18 persons.

4. The C.D.Rs., which have been sought to be preserved, are of 27.08.2021 from 5 AM to mid night.

5. Learned trial Court has rejected the said application vide impugned order on the ground that there is no nexus between the C.D.R. called for and the allegation leveled against the petitioner, who is accused in the said case. C.D.Rs. of the public officers/officials sought to be preserved, are totally irrelevant, and they are neither necessary nor desirable for the just decision of the case.

6. Ms.Nutan Thakur, learned counsel for the petitioner submits that the accused-petitioner has been falsely implicated in the case as he has been exposing the Government and officers in public. Call details would demonstrate that the instructions were given, and there was a communication between the various police officials as well as Home Secretary, Additional Chief Secretary (Home) to implicate the petitioner/accused.

7. Call details only would demonstrate that calls made by one to another, and the contents of the call cannot be gathered from mere C.D.Rs. If two officers/officials have talked or given instructions to each other in respect of any incident that would not amount that the accused was being falsely implicated.

8. Be that as it may, since the trial is still pending, every defence, which may be available to the accused, can be taken at an appropriate stage. He cannot ask the trial Court for a direction to the prosecuting agency that a particular evidence is collected which may be in his favour.

9. In view thereof, I do not find any ground to interfere with the impugned order. This petition being misconceived is hereby **dismissed**. However, considering the fact that two persons had died by committing suicide in front of Gate No.6 of the Supreme Court, learned Trial Court is expected to expedite the trial and conclude the same. Trial Court should afford a reasonable opportunity of fair trial to the accused.

(Dinesh Kumar Singh, J.)

Order Date :- 2.9.2022
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