

**IN THE COURT OF SHRI PULASTYA PRAMACHALA,
SPECIAL JUDGE CBI - 13, (PC ACT)
ROUSE AVENUE DISTRICT COURTS, NEW DELHI.**

CBI v. Dr. Arun Mohan & Anr.

RC No. RC-DAI-2020-A-0001-CBI-ACB-New Delhi

U/s. 120-B of IPC & Sec. 7 & 7A of PC Act, 1988 (As amended in 2018)

27/08/2020 (At 10:27 AM)

Present: Sh. Neelmani, Id. PP for CBI along with IO/Insp. Sunil Kumar.
Sh. K.S. Negi, Id. counsel for applicant Dr. Arun Mohan.
Sh. Daljeet Singh (reader) and Sh. Tarun Aggarwal (ahlmad)
of this court.

(Through Cisco Webex Meeting App)

1. In continuation of previous order, hearing of this application is being hosted by Sh. Daljeet Singh, reader of this court and it is certified that audio and video quality of the hearing is satisfactory.
2. In his application u/s 91 CR.P.C., applicant Dr. Arun Mohan has made demand for following documents/records/articles: -
 - A) Call details records of mobile numbers i.e. 8949318353 & 9999910113 used by the complainant to make various calls and also to receive various calls during the period of 1st December 2019 till 31st March 2020.
 - B) All messages (SMS) received and transmitted from mobile numbers i.e. 8949318353 & 9999910113 by the complainant during the period of 1st December 2019 till 31st March 2020 from the telecom operator/ service providers.
 - C) WhatsApp messages and call records of mobile no. 8949318353 & 9999910113 by the complainant during the period of 1st December 2019 till 31st March 2020.

- D) IP address/network details of the laptop of the complainant used for transmitting/sending the e-mails/documents from March 2017 to November 2017 and also from 13.12.2019 till 31.03.2020.
- E) Physical custody/possession of the two handsets mobile bearing numbers 8949318353 & 9999910113 used by the complainant to record the conversation alleged in the complaint.
- F) WhatsApp messages and call records of both mobile numbers for the period of 1st December 2019 till 31st March 2020.
- G) Original copies of the work e-mailed to FR Tech Innovations Private Limited during March 2017 to November 2017 by the complainant Mr. Nishant Bugalia and his wife Smt. Namrata Bugalia as stated in the complaint.
- H) Original copies of the service invoices/bills raised by Mr. Nishant Bugalia and his wife Smt. Namrata Bugalia for the professional services rendered to FR Tech Innovations Private Limited during March 2017 to November 2017.
- I) Original copies of e-mail/original postal receipt evidencing sending the services invoices dated 06.04.2017, 22.05.2017, 10.06.2017, 12.07.2017, 15.08.2017, 18.09.2017 & 06.10.2017 for Rs.18 lacs (rupees eighteen lacs only) during March 2017 to November 2017 to FR Tech Innovations Private Limited as stated in the complaint.
- J) Original copy of the Acknowledgment and Inventions Agreement dated 06.03.2017 shown to have been executed on 03.03.2017.
- K) Original copy of the e-mail dated 14.12.2019 sent by the complainant to the applicant raising the claim of Rs.2.8 lacs together with the copies of the original professional bills, PAN card, Aadhaar Card, bank statements, copy of the acknowledgment and Inventions Agreement dated 06.03.2017, shown to have been executed on

03.03.2017 with attachments/annexures of the e-mail dated 14.12.2019 as stated in the complaint.

L) Copy of the Income Tax Return of the complainant Mr. Nishant Bugalia and his wife Smt. Namrata Bugalia for the financial year ending March 2017, March 2018 & March 2019.

M) Physical custody/possession of the laptop used for storing the data for the work done in connection with his assignment and also sending the work done to FR Tech Innovations Private Limited during March 2017 to November 2017 as stated in the complaint.

N) IP address/network details of the laptop of the complainant used for transmitting/sending the e-mails/documents from March 2017 to November 2017 and also from 13th December 2019 till 31st March 2020.

O) Original copy of the "Demand Notice" dated 7th January 2020 sent/ couriered/e-mailed to the e-mail ID namrata.bugalia@gmail.com, of Smt. Namrata Bugalia (wife of complainant), by the applicant as "Resolution Professional of FR Tech Innovations Private Limited".

3. IO in his reply, has taken following stand in respect of each demand of the applicant: -

A) Call detail records of mobile nos. 8949318353 & 9999910113 from 30.12.2019 to 11.01.2020, both used by complainant, have been received and preserved. As the complainant received the first call from applicant accused on 30.12.2019, hence, the CDRs have been obtained from 30.12.2019. The CDRs from 01.12.2019 are not relevant, hence, not required for the purpose of investigation.

B) As the CDRs of the above mentioned mobile numbers have been obtained, which include the details of messages of both mobile numbers from 30.12.2019 to 11.01.2020.

- C) The mobile phone of the complainant has already been seized during trap proceedings. The mobile phone has been sent to CFSL for voice comparison. The WhatsApp data (messages and call records) remains in the mobile phone, which is with the CFSL now.
- D) The relevant e-mails transmitted by the complainant and his wife from March 2017 to November 2017 and from 13.12.2019 to 07.01.2020 have been seized with certificate u/s. 65-B of Indian Evidence Act. Hence, the IP address/network details of the laptop of the complainant used for transmitting/sending the e-mails/documents are not required for purpose of investigation.
- E) The complainant was using only one mobile phone having dual mobile numbers i.e. 8949318353 & 9999910113, which has already been seized and sent to CFSL.
- F) The mobile phone of the complainant has already been seized during trap proceedings. The mobile phone has been sent to CFSL for voice comparison. The WhatsApp data (messages and call records) remains in the mobile phone, which is with the CFSL now.
- G) The work was done in the software and the same was sent through e-mail. The e-mail copies along with certificate u/s. 65-B of Indian Evidence Act, have been obtained.
- H) The original copies of service invoices bills were sought from the complainant, but being the long period, the original bills are not with him. However, the photocopies of bills sent through e-mails have been obtained.
- I) A notice u/s. 91 Cr.P.C. dated 22.08.2020 has been issued to the complainant to provide the copies of e-mails evidencing sending all the service invoices bills.

- J) The original copy of the Acknowledgment & Inventions Agreement dated 06.03.2017 was sought from the complainant, on which he stated that the original copy of the agreement is not having with him.
 - K) The original copy of e-mail dated 14.12.2019 sent by the wife of complainant to the applicant has been obtained along with certificate u/s. 65-B of Indian Evidence Act.
 - L) The copy of Income Tax Return of the complainant has not been obtained as it is not required for investigation.
 - M) The physical custody of the laptop used for storing the data for the work done by complainant is not required for investigation.
 - N) The relevant e-mails transmitted by the complainant and his wife from March 2017 to November 2017 and from 13.12.2019 to 07.01.2020 have been seized with certificate u/s. 65-B of Indian Evidence Act. Hence, IP address/network details of the laptop of the complainant used for transmitting/sending the e-mails/documents are not required for the purpose of investigation.
 - O) The original e-mailed copy of demand notice dated 07.01.2020 along with certificate u/s. 65-B of Indian Evidence Act, has been obtained from the complainant.
4. Copy of reply was forwarded to applicant in advance. Ld. counsel for applicant submitted that he has gone through the reply and he does not press for all the demands made in the application except for CDRs as mentioned in clause A. Ld. counsel submitted that complainant had been making calls to the applicant even prior to 30.12.2019 and he had been in custody of the same numbers even after 11.01.2020. Ld. counsel further submitted that in fact, the mobile phones were not seized from the complainant and he went abroad after 11.01.2020 with same mobile phones and numbers, therefore, the CDR up to 31.03.2020 have been sought. IO submitted that complainant had been using only one mobile

phone with dual SIM and this mobile phone set was seized on 11.01.2020 itself.

5. As far as previous conversation between complainant and applicant i.e. prior to 30.12.2019 are concerned, Id. counsel for applicant could not explain any relevance for the same. Even if it is assumed that both these persons were in contact telephonically, such fact cannot aid the plea of defence that no demand of bribe was made by the applicant. Hence, I do not find any requirement to get preserved or obtain the CDRs prior to 30.12.2019. However, keeping in view the submissions made in respect of custody of mobile phone with same numbers with complainant even after 11.01.2020, I deem it fit to get preserved or to obtain the CDRs of both given mobile numbers of the complainant up to 31.03.2020.
6. Accordingly, IO is directed to get preserved and to obtain certified copies of CDRs of both mobile numbers as mentioned in clause 1-A of the prayer, up to 31.03.2020. Application is partially allowed accordingly.
7. Put up on date already fixed i.e. 11.09.2020 for hearing on another application.
8. This order has been passed at my residential office and copy of digitally signed order is being transmitted to Ahlmad electronically for compliance and for uploading on the website. A copy of this order be sent through e-mail/whatsApp to all parties for information.

(Pulastya Pramachala)
Special Judge (CBI-13), PC Act,
RADC, New Delhi/27.08.2020