

M.Cr.C.No. 491 -2020

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THE HIGH COURT OF MADHYA PRADESH, INDORE BENCH
SINGLE BENCH

Miscellaneous Criminal Case No. 491 / 2020

Ajay Nogare s/o Kailash Nogare

vs.

State of Madhya Pradesh

Coram :

Hon'ble Shri Justice Subodh Abhyankar

Shri Jitendra Sharma, learned for the applicant.

Shri Amit Raj, learned Panel Lawyer for the respondent/State.

Whether approved for reporting : **Yes**

ORDER (Passed on 01st of July, 2021)

The applicant has filed the present Miscellaneous Criminal Case under Section 482 of the Cr.P.C. against the order dated 30.11.2019 passed by the Sessions Judge, Ujjain in S.T.No.270/2019 whereby the applicant's application filed under Section 91 of the Cr.P.C. has been rejected, wherein the call details of the mobile numbers of the present

applicant-Ajay and the other co-accused Monu were sought to be called, as according to the applicant, when the incident took place on 24.3.2019 he was not present on the spot.

2. In the aforesaid application, the CCTV footage of the Shankh Dwar Mahakaal Mandir and Harsiddhi Mandir dated 24.3.2019 between 6 to 7 p.m. has also been sought. The said application of the applicant has been rejected by the learned trial court on the ground that no reason has been assigned as to why the call details are being sought. So far as the record of the CCTV footage is concerned, it is submitted that the distance from the place of incident i.e., Harsiddhi Mandir to Shankh Dwar, Mahakaal Mandir is hardly at a distance of 200 meters from where the incident took place and it takes only a minute to reach hence there is no need to call for the record of CCTV footage also.

3. Counsel for the applicant has submitted that the call details as well as tower locations of the mobile numbers of the present applicant-Ajay and the other co-accused Monu are necessary for their defence and it is submitted that the CCTV footage is equally important as at the time of the incident the applicant was at Shank Dwar Mahakaal

Mandir. Thus, counsel has prayed that the impugned order be set aside.

4. Counsel for the respondent/State, on the other hand, has opposed the prayer.

5. Having considered the rival submissions and on perusal of the case diary, including the impugned order, this Court finds that although the applicant's application under Section 91 of the Cr.P.C. has been filed at an early stage but the same has been filed to secure the record regarding the CCTV footage, call details and tower locations of the mobile numbers of the present applicant and the other co-accused Monu to ensure that they were present at some other place other than the place of the incident. In the considered opinion of this court, an accused cannot be denied his right to adduce evidence within parameters of law, and in the present case he is only seeking to secure the evidence which he might lead at the appropriate stage of the trial which cannot be said to be unwarranted or unreasonable. In such circumstances, it would be expedient to direct the respondent to ensure that the aforesaid data regarding the telephone numbers of the present applicant-Ajay and Monu be secured, including the call details and the

tower locations, as also the CCTV footage of Shankh Dwar Mahakaal Mandir, if they are not already deleted. An affidavit to this effect be also file by the investigating officer before the Trial court within two weeks from today.

6. With the aforesaid directions, the present M.Cr.C. stands disposed of. The respondent/State is also directed to ensure that the order passed by this Court is strictly complied with.

Certified copy, as per rules.

(Subodh Abhyankar)
Judge

moni

Digitally signed by MONI RAJU
Date: 2021.07.02 09:59:40 +05'30'

THE HIGH COURT OF MADHYA PRADESH , INDORE BENCH**M.Cr.C.No. 491 -2020**

(Ajay Nogare s/o Kailash Nogare vs. State of Madhya Pradesh)

Indore, Dated: 26/06/2021**Heard through video conferencing.**

Shri Jitendra Sharma, learned counsel for the applicant.

Shri Amit Raj, learned counsel for the respondent/State.

Arguments heard.

Reserved for order.

**(Subodh Abhyankar)
Judge**

moni

Indore, Dated: 01/07/2021

Order passed, signed and dated.

**(Subodh Abhyankar)
Judge**

moni

M.Cr.C.No. 491 -2020

THE HIGH COURT OF MADHYA PRADESH, INDORE BENCH

Single Bench : Hon'ble Shri Justice Suborder Abhyankar

M.Cr.Case No.491/2020

Amit Dwivdi s/o Sheshmani Dwivedi vs. State of M.P.

- 1 Case No. M.Cr.C.No.491 of 2020
- 2 Parties Name Ajay Nogare s/o Kailash Nogare
vs.
State of Madhya Pradesh
- 3 Date of Order 01st of July, 2021
- 4 Bench constituted of Single Bench
Hon'ble Justice Hon'ble Shri Justice Subodh Abhyankar
- 5 Order passed by Hon'ble Shri Justice Subodh Abhyankar
- 6 Whether approved for **Yes** reporting
- 7 Name of counsel for the Shri Jitendra Sharma, learned counsel for parties the applicant

Shri Amit Raj, learned Panel Lawyer for the respondent /State.
- 8 Law laid down An accused cannot be denied his right to adduce evidence within parameters of law, and in the present case he is only seeking to secure the evidence which he might lead at the appropriate stage of the trial which cannot be said to be unwarranted or unreasonable
- 9 Significant paragraph 5