

Harish Kumar Vs.State
FIR No. 213/2020
PS Neb Sarai (DIU)

11.06.2020

Present: Sh. Lalit Pingolia, Ld. APP for State.
Sh. Ravi Drall, counsel for applicant.
IO SI Kamal Kant.

In view of the prevailing pandemic of COVID-19 as per the directions of Hon'ble High Court and Ld. District & Sessions judge, Rouse Avenue District Courts, the application of applicant is being heard through video conferencing using CISCO-WEBEX App from my own residence. The VC link has been sent by the Court Official deputed by Ld. District & Sessions Judge.

This is an application for preserving CCTV footage of PS Neb Sarai, PS Tigri and PS Malviya Nagar/DIU.

Another application for supplying copy of status report and pagination of police diary has been received by e-mail.

Let copy of status reports filed in the CCTV application be supplied to the counsel for applicant.

I have heard the submissions of the parties and also perused the fresh status report filed by the IO signed by Inspector Rajiv Kumar, DIU, South.

As per the status report, CCTV cameras are not in working condition in PS Neb Sarai and PS Tigri and CCTV cameras at PS Malviya Nagar only are in working condition.

Objection has been taken towards supply of CCTV footage of PS Malviya Nagar on the ground that supplying the same to the accused may reveal the credentials of other key witnesses present at the PS, as the office of DIU is in the same building as PS Malviya Nagar.

Therefore, firstly, DCP South is called upon to file a detailed report regarding the non functioning of CCTV cameras at PS Neb Sarai and PS Tigri including aspects like since when they

are not in working condition and whether this aspect has been in the knowledge of the DCP office and what steps have been taken for repairing the malfunctioning CCTV cameras.

Secondly, since CCTV footage can be considered as transient evidence inasmuch as it can disappear if not properly preserved, its preservation is essential inasmuch as footage usually gets deleted in 15-30 days.

The apprehension of the IO that identity of the witnesses can get revealed to the accused at the investigation stage itself is well founded and therefore, at this stage, only directions for preserving the CCTV footage at the entrance of PS Malviya Nagar and of other places where the accused may have visited may be essential and a copy of the same need not be given to the accused at this stage itself and the concerned court can take a call on supplying the CCTV footage to the accused at an appropriate stage after perusing the same. Needless to say that on the last date, I had categorically pointed out to the counsel for the accused and the relevant portion is reproduced hereinbelow for ease of reference:

Secondly, it has been put to the counsel that the present case arises out of alleged suicide committed by the victim before the date for which the CCTV footage has been sought. The CCTV footage is not going to create a defence in favour of the accused viz-a-viz commission of the offence. It is, at the most, going to show that an incorrect submission was made during hearing of the bail application regarding the presence of the accused. The same may amount to a separate offence against the accused by the IO, if correct. Therefore, whether the proper course would have been for the counsel to move a proper complaint before the Magistrate having territorial jurisdiction alongwith application for preserving of CCTV footage? in my view the ACMMs Court at Rouse Avenue District Courts would not try the IO for any offence committed during the investigation and further holding of a mini trial within the trial of a Sessions triable case may not be appropriate.

Therefore, IO shall after perusing the CCTV footage preserve the necessary CCTV footage of PS Malviya Nagar i.e. of the entrance etc. of 21.05.2020 between 09:00 am and 01:00

pm and of 26.05.2020 and 27.05.2020 between 02:00 pm and 05:30 pm in terms of para 6 and 7 of the application.

The application be listed for further directions on 16.06.2020 before the concerned Duty MM.

Harjot Singh Bhalla
Duty MM/CMM/RADC/New Delhi
11.06.2020