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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on:18.08.2025***

Judgment pronounced on: 29.08.2025

\+ MAT.APP.(F.C.) 251/2025 and CM APPL. 50033/2025

[redacted] .....Appellant

Through: Mr. Prateek Chaudhary, Adv.

versus

[redacted] .....Respondents

Through: Mr. Prashant Ghai, Adv for R-1.
Mr. Prashant Singh, Adv for R-2.

\+ MAT.APP.(F.C.) 285/2025 and CM APPL. 48858-48859/2025

[redacted] .....Appellant

Through: Mr. Prashant Ghai, Adv.

versus

[redacted] .....Respondents

Through: Mr. Prashant Singh, Adv. for R-1.
Mr. Prateek Chaudhary, Adv. for R-2.

\+ MAT.APP.(F.C.) 256/2025 and CM APPL. 41978/2025

[redacted] .....Appellant

Through: Mr. Prateek Chaudhary, Adv.

versus

[redacted] .....Respondents

Through: Mr. Prashant Ghai, Adv for R-1.
Mr. Prashant Singh, Adv for R-2.

+ MAT.APP.(F.C.) 275/2025 and CM APPL. 46455-46456/2025

[redacted] .....Appellant

Through: Mr. Prashant Singh, Adv.

versus

[redacted] .....Respondents

Through: Mr. Prashant Ghai, Adv. for R-1.
Mr. Prateek Chaudhary, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. The present batch of four connected Appeals assails different parts of the common interlocutory Order passed on 29.04.2025 [hereinafter referred to as "Impugned Order"] by the Family Court. All four Appeals arise out of the same matrimonial proceedings, being HMA No. 479/2023, titled ***Smita Shrivastava v. Sumit Verma & Anr.,*** pending before the Family Court, and involve the same set of parties. The Impugned Order, *inter alia*, addressed:

i. the impleadment of the alleged paramour as a party to the proceedings;

ii. the production of certain documents under Order XI Rule 14 Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"]; and

iii. the disclosure of Call Detail Records [hereinafter referred to as "CDRs"] and tower location details under Section 151 of the CPC.

2. Since all four Appeals arise out of the same *lis* and turn upon overlapping issues, they are being, with the consent of learned counsel for the respective parties, disposed of by this consolidated judgment.

3. For the sake of convenience, the parties shall be referred to by their status they held before the Family Court. The Appellant in MAT.APP.(F.C.) 285/2025 is the Wife/Petitioner [hereinafter referred to as "Wife"]; the Appellant in MAT.APP.(F.C.) 275/2025 is the Husband/Respondent No.1 [hereinafter referred to as "Husband"]; and the Appellant in MAT.APP.(F.C.) 251/2025 & 256/2025 is the impleaded Respondent No.2, alleged to be the paramour of the Husband [hereinafter referred to as "R-2"].

Appeals and Reliefs

i. **MAT.APP.(FC) 251/2025 (R2's Appeal – Impleadment):** Seeks setting aside of the Impugned Order to the extent it rejects her application under Order I Rule 10(2) of the CPC read with Section 151 of the CPC (and invoking Order VII Rule 11 of the CPC) for striking off her name from the array of parties in HMA 479/2023.

ii. **MAT.APP.(FC) 256/2025 (R2's Appeal – Tower Location/ CDRs):** Challenge is to the Order allowing the Wife's application under Section 151 of the CPC directing preservation and production of tower location of the mobile phone allegedly

used by R-2, along with CDRs/tower location of the Husband for the period January, 2020 till date.

iii. **MAT.APP.(FC) 285/2025 (Wife's Appeal):** Challenges the disallowance of the Wife's prayer under Order XI Rule 14 of the CPC for production of documents at serial nos. (ix), (xi), and (xiv) to (xxiv) of her application, and seeks a direction to the Husband to produce all documents enumerated therein.

iv. **MAT.APP.(FC) 275/2025 (Husband's Appeal):** Assails the Impugned Order whereby the Family Court allowed the Wife's application under Section 151 of the CPC application for CDRs/tower location, and partly allowed the Wife's application under Order XI Rule 14 of the CPC for production of certain documents, directing production of some financial records, while rejecting others as fishing/roving.

FACTUAL MATRIX:

4. The marriage between the Wife and the Husband was solemnised on 10.10.2002 at New Delhi, as per Hindu rites and ceremonies. Out of the said wedlock, two children were born on 31.12.2004 and 22.12.2010 respectively, both of whom presently reside with the Wife. Matrimonial discord subsequently arose, which led the wife to institute a petition under Section 13(1)(i) & (ia) of the Hindu Marriage Act, 1955 [hereinafter referred to as "HMA"], registered as HMA No. 479/2023, seeking dissolution of marriage on grounds of adultery and cruelty. In support of her allegation of adultery, the Wife impleaded R-2 as co-respondent in the petition. The

core allegation is that the Husband and R-2 maintained an illicit relationship and travelled/stayed together on multiple occasions at specified hotels/guest houses and locations.

5. During pendency of HMA No. 479/2023, three interlocutory applications came up for consideration before the Family Court:

i. R-2's application under Order I Rule 10(2) of the CPC, read with Order VII Rule 11 of the CPC, seeking deletion of her name from the array of parties;

ii. The Wife's application under Section 151 of the CPC seeking preservation/production of CDRs including tower location of mobile phones used by the Husband and R-2; and

iii. The Wife's application under Order XI Rule 14 of the CPC seeking production by the Husband of 24 categories of documents.

6. *Vide* the common Impugned Order dated 29.04.2025, the Family Court:

i. Dismissed R-2's application under Order I Rule 10(2) of the CPC, holding that she was a necessary and proper party to the proceedings;

ii. Allowed the Wife's application under Section 151 of the CPC, directing the SHO and concerned telecom providers to preserve and produce the CDRs of the Husband's mobile number, along with tower location charts of the Husband and R-2, for the period from January 2020 till date; and

iii. Partly allowed the Wife's application under Order XI Rule 14 of the CPC, directing production by the Husband of documents at serial nos. (i) to (viii), (x), (xii) and (xiii) — essentially covering bank/credit card statements, UPI transactions, demat accounts and ESOP details, while rejecting production of the remaining documents, including WhatsApp, Microsoft Teams and Facebook Messenger chats, FASTag records, leave records, hotel bookings, travel details, on the ground that these amounted to fishing and roving enquiries.

CONTENTIONS OF THE PARTIES

7. **R-2 (Appellant in MAT. APP. (F.C.) 251/2025):**

7.1. The grievance of R-2 in this Appeal is directed against the dismissal of her application under Order I Rule 10(2) of the CPC read with Order VII Rule 11 of the CPC seeking deletion of her name from the array of parties in HMA No. 479/2023.

7.2. It is contended that her impleadment in a matrimonial case between the Husband and Wife was wholly misconceived. She placed reliance upon Order I Rule 10(2) of the CPC, Order VII Rule 11 of the CPC, Order VI Rules 4 and 6 of the CPC, Section 21 of the Family Courts Act, 1984 [hereinafter referred to as "FC Act"], as well as Rules 12(a) and 7(g)(iii) of the Delhi High Court Hindu Marriage Rules, 1979. According to her, these provisions make it a condition precedent for impleadment that there must be clear and specific pleadings of adultery, namely particulars of time, date, place, and act of sexual intercourse.

7.3. It was argued that the petition filed by the Wife fell woefully short of this threshold. The Wife had not averred even a single instance of sexual intimacy, much less sexual intercourse, between the Husband and R-2. The meetings pleaded in the petition, even if accepted at face value, were confined to public spaces or professional settings and could not give rise to a cause of action for impleadment. R-2 submitted that in the absence of precise particulars, impleading her amounted to nothing more than a roving and humiliating enquiry, contrary to settled law that what is not pleaded cannot be proved.

7.4. R-2 further argued that the Family Court fell into error by stretching the inference of "adulterous relations" far beyond the pleadings. R-2 contended that in the absence of explicit mention of sexual intercourse, the Court could not infer such acts from vague or general averments. The Family Court itself was unable to point to a single paragraph where sexual intimacy could be discerned, and its reasoning, in effect, substituted speculation for pleadings. Such an approach, R-2 urged, was inconsistent with the very rules which permit her impleadment — the same rules that also mandate specific particulars. There cannot be one threshold for making a third party a respondent and another, lower threshold for inferring adultery from vague assertions.

7.5. It was also submitted that impleadment exposes her to public stigma and harassment, without any substantive basis. If at all her testimony is considered necessary, the Wife always has recourse to the ordinary law of evidence to summon her as a witness, without arraying her as a party-respondent.

7.6. On these premises, it was prayed that the Impugned Order dated 29.04.2025 rejecting her application under Order I Rule 10(2) of the CPC read with Order VII Rule 11 of the CPC be set aside, and her name be struck off from the array of parties.

8. **R-2(Appellant in MAT. APP. (F.C.) 256/2025):**

8.1. R-2 has assailed the Impugned Order whereby the Family Court allowed the application filed by the Wife under Section 151 of the CPC directing disclosure of the tower location details of the mobile phone used by R-2 from the year 2020 till date.

8.2. It was contended that the order suffers from grave illegality inasmuch as it violates the R-2's fundamental right to privacy guaranteed under Article 21 of the Constitution of India, as recognised in ***Justice K.S. Puttaswamy (Retd.) v. Union of India***[1] and subsequent cases, which mandate that any invasion of privacy must meet the tests of legality, necessity, and proportionality. It was urged that no *prima facie* case of adultery had been made out in the pleadings of the Wife that could justify such an intrusion. The divorce petition, according to R-2, does not plead any specific instance of sexual intercourse between the Husband and R-2, and in the absence of such particulars, compelling disclosure of years of tower location data amounts to an impermissible intrusion into her private life.

8.3. It was further contended that the application filed by the Wife is in the nature of roving and fishing enquiry into the private life of R-2, lacking precise particulars of time, place, or occurrence. In the

[1](2017) 10 SCC 1

absence of such particulars, the order directing disclosure of tower location amounts to an unwarranted intrusion into her personal life, and is contrary to the settled principle that pleadings cannot be supplemented by speculative discovery.

8.4. It was also submitted that the petition has been filed with the ulterior motive of harassing R-2 and damaging her reputation and career. The Wife has no *locus standi* to seek details of R-2's private data, and the Family Court failed to appreciate that her baseless apprehensions cannot override the Appellant's constitutional rights. The allegations of adultery, even otherwise, do not cross the threshold required under Section 13(1)(i) of the HMA. It was urged that compelling disclosure of several years of tower location data, without strict necessity, not only violates privacy but also sets a dangerous precedent in matrimonial disputes.

8.5. R-2 submits that the Impugned Order constitutes an unwarranted intrusion into her fundamental rights and should therefore be set aside.

9. **Wife (Appellant in MAT. APP. (F.C.) 285/2025):**

9.1. The Wife has assailed the Impugned Order, insofar as it partly rejected her application under Order XI Rule 14 of the CPC seeking discovery and production of certain documents at Serial Nos.(ix), (xi), (xiv) to (xxiv) which, according to her, are essential for proving her case of adultery and cruelty against the Husband.

9.2. It was contended that adultery, by its very nature, is a

clandestine act, and direct evidence is rarely available. Consequently, circumstantial evidence such as coordinated travel, leave records, and focused electronic communications assumes particular significance. The Family Court's observation that the request amounted to a 'fishing enquiry' was erroneous, as her application contained specific particulars—names of hotels, dates of stays, and travel details—fully satisfying legal thresholds.

9.3. The Wife urged that these documents are necessary not only for proving adultery under Section 13(1)(i) of the HMA, 1955 but also for determining permanent alimony under Section 25 of the HMA, as they reveal the Husband's lifestyle and financial capacity. Denying access to this evidence, she argued, deprives her of a fair trial. Reliance was placed on Sections 65A and 65B of the Indian Evidence Act, 1872 [hereinafter referred to as "IE Act"] and Section 14 of the FC Act, which empower courts to receive material even if not strictly admissible under the IE Act.

9.4. Judicial precedents were cited to support her claim. In ***Aparna Choudhrie Kala & Anr. vs Vaibhav Kala***[2], this Court held that CDRs and tower location constitute crucial evidence in adultery cases, echoing the view in ***Radeena DN v. Rahul K***[3]**.** Further reliance was placed on ***Sachin Arora v. Manju Arora***[4], where this Court ruled that production of hotel stays and call details does not amount to a roving or fishing enquiry when the request is specific and particularized; the Court also clarified that the right to privacy is not absolute and must

[2]2024 SCC OnLine Del 876
[3] 2020 SCC OnLine Ker 20535
[4] 2023 SCC OnLine Del2692

yield to the right to a fair trial.

9.5. As to privacy concerns, the Wife submitted that extraction of WhatsApp chats and call records can be undertaken through a calibrated protocol with confidentiality safeguards, thereby balancing the Husband's and R-2's privacy rights with her right to present evidence.

9.6. On these grounds, it was prayed that the Impugned Order dated 29.04.2025 be set aside to the extent it disallows discovery, and the Husband be directed to produce the requested records for effective adjudication of her divorce petition.

10. **Husband (Appellant in MAT. APP. (F.C.) 275/2025):**

10.1. The Husband has assailed the Impugned Order dated 29.04.2025 to the extent it partly allowed the Wife's applications under Section 151 of the CPC and Order XI Rule 14 of the CPC. It was contended that the Family Court erred in directing disclosure of the Husband's confidential financial records and in summoning CDRs and tower location data, despite the Wife's failure to establish a *prima facie* case of adultery or concealment of assets.

10.2. The Husband urged that his Affidavit of Income, Assets and Expenditure had already been filed in strict compliance with ***Rajneesh v. Neha***[5], and that no deficiency therein was ever pointed out by the Wife. The Family Court, instead of requiring the Wife to place her own full and candid disclosure of income, wrongly burdened the

[5](2021) 2 SCC 324

Husband with further disclosure of documents not relevant to the stage of proceedings.

10.3. As regards financial documents (bank accounts, credit cards, UPI transactions, demat and ESOP records), it was submitted that these are wholly premature and unnecessary, since determination of permanent alimony under Section 25 of the HMA arises only after adjudication of the divorce petition. By compelling such discovery at an interlocutory stage, the Family Court effectively allowed a fishing and roving enquiry into his personal affairs, which is impermissible in law.

10.4. The Husband also submitted that several of the categories of documents sought were not within his possession, custody, or power, particularly metadata, chats and electronic records spanning multiple platforms. The Wife's demand for wholesale production of such records amounted to an unbridled fishing and roving enquiry, unsupported by specific pleadings.

10.5. As regards CDRs and tower location data, the Husband contended that the directions are manifestly arbitrary. No specific date, place, or incident of alleged adultery has been pleaded in the Wife's petition. Mere telephonic conversations or tower proximity cannot establish adulterous conduct, which must be proved by cogent evidence.

10.6. While admitting that he frequently communicated with R-2, the Husband explained that the same was necessitated purely by professional obligations, as his headquarters are based in the United

States of America and client calls often take place across international time zones. The Family Court failed to appreciate this context and wrongly drew adverse inferences.

10.7. It was emphasized that the Husband is engaged in sensitive international business dealings, and disclosure of voluminous financial records and telecommunication data would compromise client confidentiality and cause serious prejudice to his professional standing. The Family Court failed to balance such concerns against the Wife's speculative allegations.

10.8. The Husband also relied on the fact that the Wife's application under Section 24 of the HMA had already been disposed of by consent on 19.11.2024, and that she had been earlier denied interim maintenance by the Metropolitan Magistrate on 13.09.2024. Therefore, the discovery applications were not only premature but stood effectively settled by earlier judicial orders.

10.9. On these grounds, it was prayed that the directions for production of financial documents, CDRs and tower location data be set aside and the Wife's applications be dismissed.

FINDINGS & ANALYSIS

11. We have heard learned counsel for the parties at length and carefully perused the material on record. The principal issues which arise for determination are:

i. Whether the Family Court rightly rejected R-2's application under Order I Rule 10(2) of the CPC read with

Section 151 of the CPC (and invocation of Order VII Rule 11 of the CPC), for deletion of her name from the array of parties in HMA No. 479/2023;

ii. Whether directing production of CDRs of the Husband and tower location details of R-2 and the Husband, for the period January 2020 till date under Section 151 of the CPC was justified;

iii. Whether refusal to direct production of documents at Serial Nos.(ix), (xi), and (xiv) to (xxiv) under Order XI Rule 14 of the CPC, as being a "fishing and roving inquiry," was legally sustainable;

iv. Whether the Family Court rightly ordered partial disclosure of the Husband's financial documents at Serial Nos.(i) to (viii), (x), (xii), and (xiii) under Order XI Rule 14 of the CPC.

I. On the question of impleadment of R2

12. Order I Rule 10(2) of the CPC empowers the Court, at any stage of the proceedings, to strike out improperly joined parties or to add parties whose presence is necessary for complete adjudication. The provision reads as under:

> *"The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that- the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in*

the suit, be added."

13. In the context of matrimonial disputes, this discretion is circumscribed by the statutory framework. Section 13(1)(i) of the HMA recognises *adultery* as a distinct ground for divorce. The procedural framework governing such petitions requires that full particulars of the alleged matrimonial offence be furnished, including the identity of the person alleged to be involved. Courts have consistently required impleadment of such person to ensure fairness in adjudication.

14. This requirement is not one of mere procedural convenience, but stems from the principles of natural justice as consistently recognised by judicial precedent.

15. The rationale behind this mandate is twofold. First, allegations of adultery, if proved, entail serious civil consequences and stigma upon the alleged paramour. To record such findings without affording them a right of hearing would be contrary to the principle of *audi alteram partem*. Second, the Family Court cannot effectively or fairly adjudicate the ground of adultery without the presence of the alleged participant. This legislative mandate also underscores a policy choice that allegations of adultery, by their very nature, touch upon the reputation and dignity of a third party, and therefore justice requires that such person be given a fair opportunity to defend themselves.

16. This position has also been judicially affirmed. In ***Rajesh Devi v. Jai Prakash***.[6], wherein the Division Bench of Punjab & Haryana

[6]2019 SCC OnLine P&H6239

Court held that a decree of divorce on the ground of adultery cannot be granted without impleading the alleged adulterer or adulteress as a party. The Court emphasized that such impleadment is not merely procedural, but a substantive safeguard flowing from natural justice, since any finding of adultery visits serious stigma upon the third party concerned.

17. Similarly, in ***Padmavathi v. Sai Babu***[7], the Andhra Pradesh High Court held that even in the absence of an express statutory rule, the alleged adulterer/adulteress is a necessary and proper party to divorce proceedings under Section 13(1)(i) of the HMA. The Court observed that a person against whom a finding of adultery is likely to be recorded cannot be condemned unheard, and his or her presence enables the Court to effectually and completely adjudicate upon the controversy. Impleadment, safeguards both natural justice and judicial propriety, and without such joinder, no effective decree can be passed.

18. Learned counsel for R-2 contended that the Wife's petition is defective as it does not specifically use the expression "sexual intercourse" in her pleadings, which, according to him, is a statutory requirement to sustain a charge of adultery. We find no merit in this contention. The petition, read as a whole, clearly sets out a case that the Husband maintained adulterous relations with R-2, supported by particulars of travel, stay and communication alleged to be of an intimate nature. Once the foundation of adultery is pleaded, the law does not mandate ritualistic reproduction of the precise words. What is required is that the pleadings, taken together, convey with reasonable

[7]2012 SCC OnLine AP 1281

clarity the charge of adultery; the Wife's petition satisfies that threshold.

19. This position finds support in Order VI Rule 2 of the CPC, which governs pleadings:

> *"Rule 2: Pleading to state material facts and not evidence.—*
>
> *(1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.*
>
> *(2) Every pleading shall, when necessary, be divided into paragraphs, numbered consecutively, each allegation being, so far as is convenient, contained in a separate paragraph.*
>
> *(3) Dates, sums and numbers shall be expressed in a pleading in figures as well as in words."*

20. The above-quoted provision mandates that pleadings shall contain a concise statement of material facts, without setting out the evidence by which those facts are to be proved. The Act does not require a petition to set out evidence or employ any particular formula of words. Thus, the absence of the specific phrase relied upon by R-2 does not render the pleadings defective.

21. Section 14 of the FC Act further reinforces this approach, which reads as under:

> *"14. Application of Indian Evidence Act, 1872—*
>
> *A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872."*

22. This provision clothes the Family Court with wider latitude in evaluating the pleadings and materials, and reinforces the view that

technical formalities of wording or evidence cannot be imported to defeat the substance of an allegation.

23. For all these reasons, we find no infirmity in the Family Court's refusal to strike off the name of R-2. The impleadment of the alleged paramour in a proceeding founded upon adultery is not only necessary but also mandated by statutory rules and principles of natural justice. The plea of R-2, therefore, must fail.

II. On the Direction for Production of CDRs and Tower Location Data

24. The next issue concerns the direction of the Family Court, passed under Section 151 of the CPC, requiring production of the Husband's CDRs and tower location data of both the Husband and R-2 for the period from January, 2020 to till date. The contention is that such an order infringes the fundamental right to privacy and amounts to a fishing enquiry, divorced from the pleadings.

25. Section 151 of the CPC preserves the inherent powers of the Court to make such orders as may be necessary for the ends of justice. In matrimonial proceedings, such powers stand enlarged by Section 14 of the FC Act. The legislative intent is clear — the Family Court, unlike an ordinary Civil Court, is not straitjacketed by technical rules of evidence, and is empowered to adopt procedures to ascertain the truth

26. Equally relevant is Section 165 of the IE Act, which empowers the Court to put questions in any form, at any time, to any witness or party, in order to discover or obtain proof of relevant facts, which

reads as under:

> *"165. Judge's power to put questions or order production. —*
>
> *"The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:*
>
> *Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:*
>
> *Provided also that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.."*

This provision underscores the inquisitorial role of matrimonial courts, which are not passive arbiters but are tasked with actively eliciting truth.

27. At the same time, the Right to Privacy, recognised as a Fundamental Right under Article 21 of the Constitution of India in ***K.S. Puttaswamy*** *(supra)* cannot be disregarded. The collection and disclosure of CDRs and tower location data implicates informational privacy, since such records reveal not only communication patterns but also physical movements. The Family Court, while empowered to summon evidence must therefore, ensure that its directions are proportionate and justified by a legitimate aim.

28. In matrimonial disputes where adultery is alleged, courts have consistently held that proof may often be circumstantial, and that evidence of association, stay at hotels, or patterns of communication may constitute relevant circumstances. CDRs and tower location data, if appropriately circumscribed to a defined period, serve as corroborative material to either establish or negate the charge of adulterous association. Such material cannot, therefore, be dismissed as a roving enquiry; it is directly relevant to the issue in controversy.

29. In the present case, the Wife has specifically pleaded that the Husband maintained an adulterous relationship with R-2, supported by particulars of travel and communication during the period beginning January 2020. The Wife obviously does not have any direct evidence of her husband indulging in acts of adultery. By resort to Section 14 of the FC Act, she is only trying to seek production of evidence which she reasonably believes will prove her charge of adultery which by its very nature can be inferred only from circumstances. In this regard, reference may be made to the observations of the Coordinate Bench of this Court in ***Linda Constance Edwards v. William Edwards & Anr.***[8]**,** relevant paragraphs whereof reads as under:-

> *"20. It is said that the adultery is committed in darkness and secrecy and, therefore, it is difficult to provide a direct proof. Rather eyewitness account or photographic account of evidence of intercourse is taken as offending. A celebrated jurist Raydon in Raydon on Divorce observes that a direct evidence is rather apt to be disbelieved as it smacks of manipulation. It is rare that the parties are surprised in direct act of adultery. In the opinion of Sir William Scott in Lovedon v. Lovedon, 2 Hagg Con, 1810 Australian Family Law 455), "the only general rule that can be laid down upon the subject is that the circumstances must be such as would lead the guarded*

[8](2000) SCC OnLine Del 933

discretion of a reasonable and just man to the conclusion, for it is not to lead a harsh and intemperatejudgment, moving upon appearances that are equally capable of two interpretations, neither is it to be a matter of artificial reasoning, judging upon such things differently from what would strike the careful and cautious consideration of a discreet man."

21. Thus the adultery is to be inferred from circumstances which must indicate inclination, guilty intention and opportunity to commit adultery. Bed room evidence is one of such strong circumstances as way back in 1909 in Kerr v. Kerr, 114 App. Div. 1421, it was observed that where man and a woman who are not husband and wife have bed room privacy, there is strong inference of adultery as they do not sing prayers there"

30. Therefore, the direction to disclose CDRs and tower location data is not a speculative fishing exercise, but one directly tied to the pleadings. Being neutral business records maintained by telecom operators, such data can provide corroborative circumstantial evidence, without trenching upon the substantive content of private communications.

31. In ***Sharda v. Dharmpal***[9], the Supreme Court upheld limited incursions into personal privacy in matrimonial disputes, holding that such directions are permissible if necessary to arrive at the truth. The same principle applies to CDRs and location data, which are objective records capable of aiding adjudication.

32. We are of the view that the Family Court's directions cannot be faulted in principle. However, proportionality requires that such disclosure be limited in scope so as to prevent undue invasion into the personal domain of the Husband and R-2. The disclosure must, therefore, be confined to a reasonable timeframe corresponding to the period alleged in the pleadings, and the material should be received in

[9](2003) 4 SCC 493

sealed cover, subject to confidentiality safeguards. This would strike a balance between the Wife's right to a fair adjudication of her allegations and the privacy interests of the Husband and R-2.

33. Accordingly, the directions of the Family Court for disclosure of CDRs of the Husband and tower location data of both R-2 and the Husband for the period from January 2020 to till date was justified in law and on facts. However, proportionality demands that such disclosures remain confined to the specific period pleaded, and that the records be produced in sealed cover, subject to confidentiality safeguards.

34. Before adverting to Issue Nos.(III) and (IV), it would be appropriate to reproduce the list of documents sought by the Wife through her application under Order XI Rule 14 of the CPC, as under:

i. Credit card statements for last three years of the Husband of ICICI Bank account bearing No. 137001513918.

ii. Credit card statements for last three years of the Husband of HDFC Bank account bearing No. 00491140001836.

iii. Credit card statement for last three years of the Husband of HDFC Bank account bearing No. 50100086929926.

iv. Credit card statement for last three years of the Husband with Bank of Baroda account bearing No. 199201000008301.

v. PayTM transaction statements for last three years of the Husband.

vi. Sodexo meal pass statements for the last three years of the Husband.

vii. Grofers application statements for the last 03 years of the Husband.

viii. Amazon purchase records and statements for the last 03 years of the Husband.

ix. Leave records of the Husband and R-2 for the last 03 years.

x. UPI transaction records and statements for the last three years of the Husband.

xi. FastTag statements for the last three years of the Husband

xii. Demat account statements of Zerodha & ICICI Direct of the Husband.

xiii. Details of Stock option/ESOPS of the Husband at M/s Soterius Life Sciences India Private Limited.

xiv. Whatsapp call and chat records between the Husband and R-2 from 01.01.2021 to 01.03.2024.

xv. Facebook messenger chat records between the Husband and R2from 01.01.2021 to 01.03.2024.

xvi. Microsoft teams call and chat records between the Husband and R-2 from 01.01.2021 to 01.03.2024.

xvii. Invoice and booking details of hotel stay of the Husband, R-2 and their colleague Parul at Hindustan Aeronautics Limited-HALGuest House. Lucknow from11.09.2021 to 14.09.2021.

xviii. Invoice and booking details of hotel stay of the Husband and R-2 at Hilton Hotel, Lucknow from 15.11.2021 to18.11.2021.

xix. Invoice and booking details of hotel stay of the Husband

and R-2 at Hyatt Regency, Lucknow on 19.11.202l.

xx. Invoice and booking details of hotel stay of the Husband and R-2 at Hindustan Aeronautics Limited- HAL Guest House, Lucknow from 09.03.2022 to 13.03.2022 along with call record details.

xxi. Invoice and booking details of hotel stay of the Husband and R-2 at Gomti Hotel, Lucknow from 28.04.2022 to 02.05.2022.

xxii. Invoice and booking details of hotel stay of the Husband and R-2 at Hotel Radisson Red, Chandigarh from 07.04.2022 to 08.04.2022.

xxiii. Invoice and booking details of hotel stay of the Husband and R-2 at Golden Tulip Hotel, Panchkula on 09.04.2022.

xxiv. Visit/travel details of the Husband to Ajmer on 17.04.2022.

III. On the Production of Documents at Serial Nos.(ix), (xi), and (xiv to xxiv) under Order XI Rule 14 of the CPC

35. The third issue concerns the Family Court's refusal to direct production of certain documents listed at Serial Nos.(ix), (xi), and (xiv) to (xxiv) in the Wife's application under Order XI Rule 14 of the CPC, on the ground that such directions would amount to a "fishing and roving inquiry."The grievance raised is that the Family Court did not permit production of documents which, according to the Wife, could assist in substantiating her case.

36. Order XI Rule 14 of the CPC empowers a party to apply for production of documents in the possession or power of the opposite party, if such documents relate to matters in question in the suit. The

said Rule reads as under:

> *"'Order XI Rule 14— Production of documents*
>
> *It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just."*

37. The scope of discovery under this provision is wide but not unlimited. Courts have consistently held that discovery is intended to facilitate fair trial and enable parties to substantiate their claims or defenses. It cannot, however, be used as a vehicle to compel production of irrelevant or extraneous material. The exercise must be guided by relevance to the matters in issue, and the applicant must demonstrate a *prima facie* link between the requested documents and the claim or defense.

38. In the present case, the Family Court found that the documents sought at Serial Nos.(ix), (xi), and (xiv) to (xxiv) were not sufficiently particularized in the pleadings or were beyond the scope of the matters in dispute, and therefore constituted a "fishing and roving enquiry." While the Court is correct in disallowing requests which are purely speculative, a blanket rejection without considering relevance on a case-by-case basis risks undue curtailment of a party's right to evidence. The Supreme Court has consistently held that the Court must adopt a practical and flexible approach while dealing with applications under Order XI Rule 14 of the CPC.

39. In the instant case, the Wife's application clearly seeks documents relating to financial transactions, communications, and

associations relevant to the allegations of adultery and maintenance claims. While certain documents may need to be narrowed in scope to avoid burdening the Husband unnecessarily, a blanket refusal on the ground of "fishing inquiry" would defeat the purpose of Order XI Rule 14 of the CPC.

40. Accordingly, we find that the Family Court's rejection of documents at Serial Nos.(ix), (xi), and (xiv) to (xxiv) requires reconsideration. The directions for production should be granted subject to reasonable limitations, ensuring that the scope corresponds to the matters specifically pleaded and relevant to the issues in controversy. Safeguards such as inspection under Court supervision, or production in sealed covers, may be imposed to prevent misuse while securing access to evidence.

41. In ***K. Srinivasa Rao v. Nalam Naga Kamala Rani & Anr.***[10], the Andhra Pradesh High Court allowed production of hotel records sought to substantiate claims of adultery, emphasizing that such records constitute primary evidence and may be preserved by third parties to prevent destruction, with production before the Court at the appropriate stage of trial. The relevant extract of the said decision reads as under:

> *"Further, when the petitioner-husband specifically sought divorce on the ground of adultery, the subject documents may be crucial to establish the alleged adulterous relationship between the first respondent-wife and the second respondent. Though photocopies seem to have been procured by the petitioner husband of some of the incriminating documents, the original record summoned from the hotels concerned would be important primary evidence. Therefore, the*

[10]Civil Revision Petition No. 2385 and 2466/2018 – Telangana High Court dated 13.07.2018

learned Family Court Judge ought not to have brushed aside the plea of the petitioner-husband for summoning of these documents despite his power to do so under Order 16 Rule 6 CPC.

The orders under revision are accordingly set aside and the civil revision petitions are allowed. The learned Judge, Family Court, Ranga Reddy District at L.B.Nagar, shall issue summons to the management of both the hotels concerned for production of the documents sought by the petitioner-husband and thereafter proceed in the matter in accordance with law."

42. Similarly, in ***Aparna Choudhrie Kala*** *(supra)*, this Court allowed the production and preservation of telephonic call details, mobile tower data, and hotel records in a case alleging adultery. The Court emphasized that preventing such evidence from being brought before the Family Court would not serve the interest of justice. The records were to be preserved by third parties to prevent destruction and produced at the appropriate stage of trial, ensuring that the parties' privacy concerns were balanced against the right to a fair trial. This reinforces the principle that circumstantial evidence, particularly hotel stays, travel logs, and communications, is crucial in establishing allegations of adultery and cannot be summarily rejected as speculative.

43. Further, in ***Sachin Arora*** *(supra)*, this Court emphasized that the production of records concerning a spouse's hotel stays or call details, sought for the purpose of proving adultery, does not constitute a 'roving or fishing inquiry' when the request is specific and particularized. The Court further held that the right to privacy of the husband is not absolute and must yield to the right of a fair trial. It is, however, noted that the said judgment has been challenged before the Supreme Court by way of Special Leave Petition (SLP (C) 11643/2023) and is currently pending adjudication. The Husband has

brought this fact to the Court's notice. Accordingly, while the principles in ***Sachin Arora*** *(supra)* are relevant for consideration, they are subject to the outcome of the pending SLP.

44. In conclusion, we affirm the Family Court's decision insofar as it rejected documents at Serial Nos.(ix), (xi), (xiv), (xv) and (xvi) as speculative and unrelated to the matters in dispute. However, the documents at Serial Nos.(xvii), (xviii), (xix), (xx,) (xxi), (xxii), (xxiii) and (xxiv) shall be allowed for production, subject to proportionality and Court-imposed safeguards such as inspection under Court supervision or production in sealed covers to prevent misuse.

IV. On the Production of Financial Documents at Serial Nos. (i to viii), (x), (xii), and (xiii) under Order XI Rule 14 of the CPC

45. The final issue concerns the Family Court's partial allowance of the Wife's application under Order XI Rule 14 of the CPC, whereby directions for production of certain financial documents of the Husband at Serial Nos. (i) to (viii), (x), (xii) and (xiii) were granted, while the remainder were rejected. The challenge is whether the Court correctly exercised its discretion in permitting partial disclosure.

46. Order XI Rule 14 of the CPC, as discussed above, empowers a party to seek production of documents in the possession, custody or power of the opposite party, if such documents relate to matters in question in the suit. The Court must ensure that this right is exercised in a manner that is proportionate and does not permit undue fishing or harassment, while also preventing obstruction of access to genuinely relevant evidence.

47. In exercising discretion, the Court must balance the right to evidence with the need to protect parties from undue burden or intrusion into private matters not relevant to the issues in dispute. The Court is not bound to grant all requests automatically; it may narrow or refuse requests which are irrelevant, speculative, or disproportionate.

48. In the present case, it is not as if the Wife is seeking information about any stranger staying in the hotel, her plea is only for records pertaining to her legally wedded husband, who she has a reason to believe is indulging in adultery with a particular lady in a particular room. The Wife has sought details of her husband's stay in a particular hotel during a specific time period and not of his friend or the friend's daughter. Similarly, she has also sought the call details of her husband alone, whose phone numbers she has provided. Once the Wife is seeking specific information regarding her husband's stay during a specific period at a specific hotel, it cannot be said that the Wife is indulging in any roving and fishing inquiry. None of the Wife's prayers, therefore, seek any information about any stranger or about any vague incident or period.

49. The Family Court directed production of financial documents that were specifically relevant to the Wife's claims, including bank statements, investment records, and documents evidencing income and assets [Serial Nos.(i) to (viii), (x), (xii) and (xiii)]. At the same time, it rejected documents that were beyond the scope of the pleadings or not directly connected to the issues of maintenance, income, or financial standing.

50. This approach reflects a reasoned exercise of judicial discretion. By allowing production of documents directly pertinent to the issues in dispute, the Court ensured the Wife's access to necessary evidence, while avoiding unnecessary intrusion into unrelated financial matters. Such a calibrated approach aligns with the principle of proportionality and prevents the discovery process from becoming a fishing expedition.

51. Accordingly, the Family Court was justified in allowing the production of financial documents at Serial Nos.(i) to (viii), (x), (xii) and (xiii) under Order XI Rule 14 of the CPC. The directions ensure that the Wife has access to material directly relevant to her claims, in a manner proportionate to the issues in dispute, and do not constitute an abuse of the discovery process.

CONCLUSION & OPERATIVE DIRECTIONS

52. In view of the foregoing discussion, we summarize our findings on the issues arising for determination as follows:

i. On the impleadment of R-2 (Issue I): The Family Court rightly rejected R-2's application under Order I Rule 10(2) of the CPC read with Section 151 of the CPC and Order VII Rule 11 of the CPC seeking deletion of her name from the array of parties. Impleadment of the alleged paramour is both statutorily mandated and necessary to uphold the principles of natural justice.

ii. On the production of CDRs and tower location data

(Issue II): The Family Court correctly allowed the Wife's application under Section 151 of the CPC for production of the Husband's CDRs and tower location data of both the Husband and R-2 for the period January, 2020 till date. The directions are proportionate, directly connected to the pleadings, and are to be complied with under confidentiality safeguards in sealed covers

iii. On the production of documents under Order XI Rule 14 of the CPC (Issue III): The Family Court's rejection of documents at Serial Nos.(xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii)and (xxiv) is set aside. Production of these documents is directed, subject to reasonable limitations and Court-imposed safeguards, including inspection under Court supervision or in sealed covers, to ensure proportionality and prevent misuse.

iv. On the production of financial documents at Serial Nos. (i to viii), (x), (xii), and (xiii) (Issue IV): The Family Court correctly allowed production of the financial documents at Serial Nos. (i) to (viii), (x), (xii), and (xiii). Documents beyond the scope of the pleadings and not directly relevant to the Wife's claims were rightly excluded.

DIRECTIONS:

53. (a) The SHO, P.S. Vasant Kunj (South), South-West District shall call for the Call Detail Records (CDRs) of mobile number **9910106100 (**used by the Husband) and tower location charts of mobile numbers **9910106100** (the Husband) and **9818910447** (R-2) for the period from January, 2020 to till date from the concerned

telecom service providers. The SHO shall ensure that the said records, once received, are placed in the Family Court record in a sealed cover, accessible only to the Court and counsel for the parties, subject to strict confidentiality safeguards. A copy of this direction shall also be issued to the concerned telecom service providers to facilitate compliance.

(b) The Husband is directed to produce the financial records enumerated at **Serial Nos.(i) to (viii), (x), (xii), and (xiii)** of the Wife's application under Order XI Rule 14 of the CPC.

(c) The Husband shall further produce the documents specified at **Serial Nos.(xvii) to (xxiv)**, relating to hotel bookings and allied details, subject to the confidentiality safeguards outlined in paragraph 54(a).

(d) The inspection of all documents so produced shall be carried out within the Court premises, or under such supervision as the Family Court may deem appropriate, to ensure their use remains strictly confined to the proceedings and to prevent any misuse or unauthorized disclosure.

54. Accordingly, the Appeals, along with pending applications, are disposed of in the above terms.

ANIL KSHETARPAL, J.

HARISHVAIDYANATHANSHANKAR, J.

AUGUST 29, 2025/*sg/pl*