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Before Hon'ble 2nd ACJM at
Nagpur

Case \147/2002 F/F 21/5/26
dt/Sunil kedar

Reply of application filed by
accused no-3 for issuance of Summons
to u/s 91 of CrPc

Your Honours,

This application is strongly opposed
on following ground:-
1] That there is no such provision
in Criminal procedure Code for
the accused u/s 91 for issuance
of summons to production of docu-
ment at the stage of evidence
of Prosecution.

2] It is submitted that though the
Section 91 of CrPc empowers to
summons a order to any person in
whose possession or power any
documents or things considered
necessary or desirable for the
purpose of any investigation, inquiry
or trial or other proceeding to
produce the same before the Court

(2)

3] It is pertinent to note that the accused no-3 himself stated in this application at para-no-5 that "document seized with the seizure memo no-10, Cox property S. No-1 to 71 whose existence, contents (71 documents)... are all recorded in the index of the Charge sheet.

4] In view of above para it is crystal clear that this accused have knowledge that the CIPD have already filed the said document along with the chargesheet. at S. no-13 of seizure list.

5] Further seizure was already marked as Exh. 1361 in earlier trial.

6] It is submitted that this chargesheet copy was received by this accused on dt 22.11.02 wherein the complete set of document along with chargesheet has been supplied to this accused up to 207 copy at early stage of framing of charge of this accused along with the accused

(3)

whose case was already decided by this court

4] Since then till today this accused have not taken any objection ~~regarding~~ regarding the not supplying of document or full chargesheet.

5] Now upon the Law point

1] Sec 91 Crpc is dealt with empowerment of the Court to issue a summons or order to any person in whose possession & power the document or thing is.

Your Honour

It is pertinent to note that the document of free which the accused seeking direction summons or order is in possession of this Hon'ble court itself & is already marked Exhibit 1361 during earlier.

2] In view above the documents ~~which~~ have already filed by the CID in Court & hence Sec 91 of Crpc does not attracted.

3) Further more a Section 91 is only application ~~when~~ applicable when the document is in possession of any ~~per~~ person & it is very necessary for proper adjudication of the case.

In present case this section is not applicable as such the document is already in custody of this Hon'ble Court.

4) Further more the accused cannot invoke his right at any stage of proceeding (i.e) Investigation, enquiry or trial.

In State of Orissa v/s Devendra Nath Padhi (2005) 1 SCC 568 Held that the law laid down that the accused is entitled to file an application u/s 91 CrPc only at the stage of defence evidence & not before that.

a) In ~~the~~ view of above reply on facts & law. It is to be noted that the document is presently

Under the Custody of this Hon'ble Court and not under the ~~Custody~~ custody of police. moreover the police have already filed the ~~documents~~ documents which is accused is seeking summons with the Chargesheet & is part & parcel of the record hence the question of summoning to CID does not arise as per section 91 of CrPc.

b) Secondly the accused ~~are~~ cannot invoke the ~~it~~ under section 91 of CrPc for the document which are placed on record & ~~to~~ which can be inspect by the accused.

c) Thirdly the accused can only invoke his right when he will enter in defence evidence if any.

d) Hence this application is filed by accused only to to prolong the case & to ~~consume~~ consume the precious time of this Hon'ble court & therefore this application is devoid of merit & hence due to be rejected.

(r. nava) 140-
Spl. APP