

MHNG030023772002



RCC No. 3030147/2002

State -- Vs – Sunil & Ors

ORDER BELOW EXH.3832

The present application is filed by Accused No.3 under Section 91 of the Code of Criminal Procedure, seeking the issuance of summons/directions to the State CID, Nagpur, for the production of documents seized under Seizure Memo No.10, comprising Case Property Sr. Nos.1 to 71.

02. The applicant's case is that during the course of the investigation, the State CID seized 71 documents from his residential premises at Kusum Apartment, Vashi, Navi Mumbai, under Seizure Memo No. 10. According to the applicant, although the charge-sheet index reflects that the said documents are in the custody of the State CID, Nagpur, they have neither been produced before the Court nor supplied to him along with the charge-sheet papers. It is contended that the said documents are necessary for conducting an effective cross-examination of prosecution witnesses and for establishing his defence.

03. According to him, the prosecution case is substantially founded on a forensic audit report, whereas the seized documents allegedly demonstrate that the funds in question were legitimately invested in Government Securities and are supported by contract notes, banking records, delivery records and correspondence with regulatory authorities. It is further contended that the documents are

in the exclusive custody of the investigating agency and, therefore, appropriate directions under Section 91 of the Cr.P.C. are required for their production before the Court and for the supply of copies to the applicant.

04. The learned Special Public Prosecutor opposed the application by filing a reply at Exh.3839. It is contended that the application is not maintainable under Section 91 of the Cr.p.c. It is further submitted that the applicant had already received copies of the charge-sheet and the supplementary charge-sheet under Section 207 of the Cr.P.C. on 22.11.2002. According to the prosecution, the seizure panchanama pertaining to Seizure Memo No.10 has already been exhibited at Exh.1361 during the trial against the co-accused, and the documents referred to therein were part of the record. It is further submitted that the present application has been filed after an inordinate delay of about 22 years and solely to protract the proceedings.

05. Heard learned Advocate Shri Pankaj Tamboli for Accused No. 3 and learned Special Public Prosecutor Smt. V.C. Chawariya. Perused the application, reply and record.

06. The applicant's principal contention is that the documents covered by Seizure Memo No.10 have not been supplied to him and are required for his defence. However, the record shows that the seizure panchanama in respect of Seizure Memo No.10 has already been exhibited at Exh.1361 during the course of trial (for the earlier accused). The documents referred to therein as Article AA-1 to AA-71 form part of the record of the case.

07. It is pertinent to note that the applicant received copies of the charge-sheet and the supplementary charge-sheet long back and, for more than two decades, did not at any point raise any grievance regarding non-supply of documents. The record further reveals that the entire proceedings and documents were scanned for the purpose of preparing paper books in connection with appeals preferred by the previously convicted accused persons. In the order passed below Exh.3801, as well as the order dated 20.04.2026 below Exh.3819, it has been specifically observed that the entire record of the case had been scanned and preserved.

08. The fact that the documents mentioned in Seizure Memo No.10 were marked as Article AA-1 to AA-71 and were part of the trial record clearly indicates that they were on record. In view of the material available before the Court, the contention that the documents were never produced before the Court cannot be accepted.

09. It is also significant that the present case is more than twenty-four years old and is now at the stage of recording evidence against Accused No.3. The record further reflects that, on several occasions, the progress of the trial has been delayed due to applications filed by Accused No.3. The present application has been filed at a highly belated stage, without any satisfactory explanation for the delay.

10. The power under Section 91 of the Cr.P.C. is undoubtedly wide and can be exercised when the production of a document is necessary or desirable for the purpose of trial. However, this power

need not be invoked when the documents sought are already part of the judicial record and have been made available during the course of proceedings. In the present case, the material on record shows that the documents referred to in Seizure Memo No. 10 were already brought on record and formed part of the case papers. Accordingly, no case is made out for the issuance of fresh summons to the State CID, Nagpur, for the production of the same documents.

11. The judgment relied upon by the learned counsel for the applicant in *Muhammad Rahim Vs. Emperor, 1935 Cri.L.J. 581*, is distinguishable on facts and does not assist the applicant in the present case's peculiar circumstances.

12. In view of the foregoing discussion, I do not find any merit in the application. The application appears to have been filed at a belated stage, despite the documents being part of the record, and therefore deserves to be rejected.

ORDER

1. The application below Exh.3832, filed by Accused No.3 under Section 91 of the Code of Criminal Procedure, is hereby rejected.

2. Proceed with the trial.

Nagpur.

Date : 19.06.2026

(M.S. Todkar)
2nd Addl Chief Judicial Magistrate,
Nagpur.