



2025:DHC:5826



\$~

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

%

Reserved on: 25.04.2025
Pronounced on: 21.07.2025

+ CRL.M.C. 8628/2024
WASIM & ANR.

.....Petitioners

Through: Ms. Anshu Priyanka, Advocate.

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Aman Usman, APP.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.

CRL.M.A. 32996/2024 & CRL.M.A. 32997/2024 EXEMPTION

Allowed, subject to all just exceptions.

The applications stand disposed of.

CRL.M.C. 8628/2024 & CRL.M.A. 32995/2024 STAY

1. This is petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**”) read with Section 482 of the Code of Criminal Procedure, 1908 [“**Code**”], seeking quashing of order dated 18.12.2023, passed by the learned Sessions Court in the matter titled “*State Vs. Wasim & Ors.*”, whereby, the application under Section 91 Cr. PC filed by the petitioners for issuance of directions to the Investigating Officer to produce the documents, verified by him during investigation, was dismissed.



2025:DHC:5826



2. The brief facts of the case are that on 05.09.2014, the deceased co-accused Irfan Ali was duped by the alleged victim Ranjeet Kumar @ Amit Kumar, who procured Rs. 32,000/- in cash, six blank cheques, and identity documents (Voter ID and PAN card) from Irfan Ali under the guise of arranging a personal loan. On 15.09.2014, Irfan Ali was informed by his banker that an amount of Rs. 99,000/- was found to be fraudulently transferred from his account to an account belonging to Amit Kumar using one of the blank cheques bearing No. 922145 handed over by Irfan Ali. Subsequently, a complaint was lodged by Irfan Ali at P.S. Govindpuri on 16.09.2014. Thereafter, on 21.10.2014, Ranjeet Kumar visited the residence of Petitioner No. 1, and on confrontation, he confessed to the fraudulent conduct, following which Ranjeet Kumar was taken to P.S. Govindpuri and FIR No. 1112/2014 under Sections 420/34 IPC was registered against him.

2.1 On the same date i.e. on 21.10.2014, the cousin of Ranjeet Kumar namely Alok Nandan lodged FIR No. 520/2014 under Section 364A IPC at P.S Anand Parbat against the petitioners. The allegations, as per the FIR, No. 520/2014 are that the complainant (Alok Nandan), received a call from Ranjeet Singh, stating that he was kidnapped by the petitioners for a ransom demand of Rs. 1.5 lakhs. Petitioners were arrested on 22.10.2014 and were subsequently granted bail by the Court vide order dated 14.11.2014.

2.2 The charge sheet against the petitioners in FIR No. 520/2014 was filed under sections 364A/120B/34 IPC. The petitioners allege



that the charge sheet has been filed in case FIR No. 520/2014 without disclosing the true facts and without filing the requisite documents.

2.3 Petitioners preferred an application under Section 91 of the Code seeking directions to investigating agency for production of documents, but the same was dismissed vide order dated 05.11.2016. Feeling aggrieved, petitioners preferred Crl. M.C. No. 439/2017 for setting aside the order dated 05.11.2016 and this Court vide order dated 21.02.2017 granted liberty to the petitioners to prefer application under section 91 of the Code when the prosecution evidence starts.

2.4 On 23.01.2017, the petitioners preferred a 2nd application under section 91 of the Code seeking issuance of directions to the Investigating Officer for production of documents. On 02.02.2018, the IO filed reply stating they are not in possession of the requisite documents, whereupon the application was withdrawn by the counsel for the petitioners.

2.5 The 3rd application filed by the petitioners under section 91 of the Code seeking production of documents was dismissed by the Trial Court vide impugned order dated 18.12.2023. Being aggrieved, the petitioners have filed the present petition.

3. Learned counsel for the petitioners submits that the documents sought to be produced are not the defence of the petitioners, but were part of the investigation carried out by the investigating agency during the course of investigation. It is not the duty of the Investigating



Officer to strengthen the case of prosecution by withholding the evidence collected by him during investigation. It is argued that fair and just investigation is a hallmark of any investigation. Since the Investigating Officer in this case has withheld the relevant documents, which shall establish the falsity of the prosecution case, not made part of the charge sheet, should be directed to be placed on record in exercise of power under Section 91 Cr.P.C.

4. *Per contra*, learned APP, appearing for the State, submits that the documents which the petitioners want to be produced by the IO are neither in possession of the investigating agency nor these documents are the part and parcel of the charge sheet and in case the petitioners want to place them on record, they can summon the same at an appropriate stage.

5. Powers under Section 91 Cr. PC are enabling in nature, aimed at arming the court or any police officer in charge of a police station concerned to enforce and to ensure the possession of any document or other thing necessary or desirable for the purpose of investigating, inquiry, trial or other proceedings under the Code by issuing summons or written order to those in possession of such material. Before dealing with rival submissions, it is apposite to refer Section 91 of the Code which reads as under:

“91. Summons to produce document or other thing

(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code



by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed--

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers Books Evidence Act, 1891 (13 of 1891), or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.”

6. Section 91 is a procedural tool to facilitate the production of documents or things necessary for fair adjudication in a criminal case. It balances the interest of justice by empowering both the investigating agency and the accused to bring relevant evidence on record. However, its misuse or fishing enquiries must be discouraged. The language of Section 91, no doubt, indicates the width of powers to be unlimited but the inbuilt limitation inherent therein takes its colour and shape from the stage or point of time it is exercised commensurately with the nature of proceedings as also the compulsions of necessity and desirability to fulfill the task or achieve the object. Another limitation to invocation of Section 91 is that it cannot be used for documents not in power or possession of the person from whom they are sought.



7. Petitioners sought the production of following documents:-

- a. *FIR No. 1112/14 under Section 420/34 IPC registered in PS Govindpuri against the victim of the instant case.*
- b. *Disclosure statement of victim Ranjeet Kumar @ Amit Kumar in the abovementioned FIR.*
- c. *Complaint of Shri Shiv Shankar, Vinjay Gaiven lodged in with PS Govindpuri vide DD No. 20-B, dated 31.05.2014.*
- d. *Complaint of Shri Amrik Singh lodged with PS Ranjeet Nagar vide No. 65B dated 17.09.2014.*
- e. *Complaint of Krishan Kumar lodged in Police Post, Sector 16 Faridabad vide reference number 97-5P II dated 31.10.2014.*
- f. *Details of all 13 accounts maintained by Ranjeet Kumar @ Amit Kumar along with statements of account for period 01.01.2015 to 31.12.2014 and their account opening form.*
- g. *Order dated 07.11.2014 passed by Shri Ranjender Kumar Shastri, ASJ-02/SE, New Delhi in case FIR No. 1112/14 under Section 420/34 IPC, PS Govindpuri.*

8. Admittedly, the documents, sought to be produced, relate to case FIR No. 1112/2014, under Sections 420/34 IPC, PS Govind Puri. Admittedly, they are not the part of the record of case FIR No. 520/2014, PS Anand Parbat. The impugned order passed by the trial court takes note of the status report of the IO that the allegations against the victim Ranjeet Kumar @ Amit Kumar have been got verified from the concerned authority as per directions of the court and during investigation, it came to notice that Ranjeet Kumar and Amit Kumar are the same persons and Ranjeet Kumar @ Amit Kumar in his disclosure statement in case FIR No. 1112/2014, under Sections



2025:DHC:5826



420/34 IPC, disclosed that he has cheated many persons with the same *modus operandi*. However, three complaints were lodged against him i.e. one at PS Govind Puri dated 31.05.2014 vide DD No. 20B, one complaint at PS Ranjit Nagar, vide DD No. 65B dated 17.09.2014 and another complaint in PP, Sector 16 Faridabad dated 31.10.2014 and that all the three complaints are of similar nature of cheating/fraud. The status report of the IO indicates that account details of Ranjeet Kumar @ Amit Kumar were also got verified.

9. The status report makes it clear that the IO had merely made verification about the documents in terms of directions of the court. Since, as claimed by the prosecution, such documents are not in power and possession of the investigating agency, no such direction to produce the said documents be issued to the IO in exercise of power under Section 91 Cr.P.C. The trial court has therefore rightly dismissed the application.

10. In view thereof, I find no illegality or infirmity in the order passed by the learned trial court. The petition is dismissed, with pending applications, if any, However, petitioners would be at liberty to summon the documents from the concerned Police Station/Court at the stage of evidence, if so required.

RAVINDER DUDEJA, J.

JULY 21, 2025_{AK/RM}