

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1255 of 2018

Atul Goyal, S/o. Laxman Prasad Goyal, Aged About 30 Years, R/o. Plot No. 403, Fourth Floor Princesses Colony, Ramkrishna Ward, Hariom Nagar, Rajnandgaon District Rajnandgaon Chhattisgarh.

---- **Petitioner**

Versus

Rajendra Golcha, S/o. Late Sonraj Ji Golcha, Aged About 42 Years, R/o. Sadar Bazar, Rajnandgaon, District Rajnandgaon Chhattisgarh

---- **Respondent**

For Petitioner : Mr. Aditya Bhardwaj, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10.07.2018

Heard

1. The present petition is against the order dated 22.02.2018 whereby the petitioner accused wanted for production of account book and the income tax return has been dismissed.
2. Learned counsel for the petitioner submits that the alleged amount is of default of Rs.3 Lakhs. It is contended that if the transaction is of Rs. 3 Lakhs, it has to be shown in the income tax return in the account and in absence thereof, it cannot be presumed that the legal liability exists. Therefore, the Court should have ordered for production of account book by invoking Section 91 of Cr.P.C.
3. Perused of the order and the documents filed alongwith the petition. The basic fact to invoke Section 91 of Cr.P.C. is to be established that the document which is sought for production exists somewhere and roving enquiry for production of the said document cannot be ordered unless and until existence of the

same is established. The petitioner accused can always cross examine the witness and unearth the truth during his course of evidence. Only on the mere presumption existence of the document cannot be accepted and the production of the same can not be ordered for.

4. The petition therefore has no merit and accordingly it is dismissed.

Ashok

Sd/-
(Goutam Bhaduri)
Judge