



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL WRIT PETITION NO. 838 OF 2024**

[Kailash Omprakash Agrawal and anr. **vs.** State of Maharashtra,  
through Sub Divisional Police Officer, City Division, Akola]

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Mr. J. B. Gandhi, Advocate for the petitioners  
Mr. A. B. Badar, APP for the State/respondent

**CORAM: ANIL L. PANSARE AND**  
**Y. G. KHOBRAGADE, JJ.**

**DATED : 07-10-2025.**

Heard.

2. The petitioners have approached this Court with the grievance that Investigating Officer has issued notice under Section 91 of the Code of Criminal Procedure, 1973 (for short 'the Code'), calling upon petitioners – accused in Crime No. 236/2024 to furnish documents which otherwise can be used against the petitioners during trial.

3. Learned counsel for the petitioners submits that such course is not permissible. In support, he has relied upon judgment of the Supreme Court in the case of ***V. S. Kuttan Pillai Vs. Ramakrishnan and another [(1980) 1 SCC 264]***, wherein it was held by Their Lordships as under :-

*“7. What was kept open in Sharma case, whether a person accused of an offence could be served with a summons to produce documents, was decided when it was observed that immunity from self-incrimination would not comprehend the mechanical process of producing documents in court which may throw a light on any of the points in controversy but which do not contain a statement of the accused based on his personal knowledge.*

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10. *In view of the decision in Shyamlal Mohanlal case one must proceed on the basis that a summons to produce a thing or document as contemplated by Section 91(1) cannot be issued to a person accused of an offence calling upon him to produce document or thing considered necessary or desirable for the purpose of an investigation, inquiry, trial or other proceeding under the Code of Criminal Procedure.”*

4. In view of the above, it appears to us that the law is well settled that the accused cannot be called upon to produce documents under Section 91 of the Code.

5. As such, learned Additional Public Prosecutor submits that the Investigating Officer is empowered to issue notice against the accused as well. However, considering the law as clarified in **V. S. Kuttan’s** case, the argument cannot be accepted.

6. In the result, the petition is allowed in terms of prayer clause (1) which reads as under.

*“1] call for the record of SDPO, Akola, in respect of the Crime No. 236/2024 for the offences under Sec. 409, 420, 467, 468, 471 R/w Sec. 34 of I.P.C. along with all the documents already produced by the Petitioners and be pleased to declare that the provisions of Sec. 91 Cr.P.C. [Sec. 94 of Bhartiya Nagarik Suraksha Sanhita, 2024] are not applicable to the accused and the notices issued by SDPO of dated 27-08-2024, 12-09-2024 and 24-09-2024 are without jurisdiction and all the notices be quashed and set aside.”*

(Y. G. KHOBRAGADE, J.)

(A. L. PANSARE, J.)