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

+ CRL.M.C. 9563/2024

AMIT KAPOOR

.....Petitioner

Through: Mr. Harshit Thareja, Adv.

versus

INCOME TAX OFFICE

.....Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC, Mr. Yojit Pareek, JSC, Mr. Surya Jindal and Ms. Prakriti Rastogi, Adv.

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+ CRL.M.C. 9572/2024

AMIT KAPOOR

.....Petitioner

Through: Mr. Harshit Thareja, Adv.

versus

INCOME TAX OFFICE

.....Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC, Mr. Yojit Pareek, JSC, Mr. Surya Jindal and Ms. Prakriti Rastogi, Adv.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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29.10.2025

1. These petitions under Section 482 Cr.P.C. read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 have been filed by the



Petitioner Amit Kapoor, seeking to set aside impugned orders dated 25.10.2024 passed by Ld. ACJM (Special Acts), Central District, Tis Hazari Courts, Delhi [“trial court”], in CT Case No. 7319/2019 and CT Case No. 7320/2019, both titled as “*Income Tax Office v. Amit Kapoor*”.

2. The said complaints were instituted by the Income Tax Department under Section 276CC of the Income Tax Act, 1961, alleging that the Petitioner had failed to file returns of income for Assessment Years 2008-09 and 2009-10, despite having made substantial cash deposits of Rs.1,62,24,642/- and Rs.1,07,74,428/- respectively during the relevant financial years.

3. Upon consideration of the material placed on record, the Ld. Trial Court took cognizance on 17.07.2019, observing that a prima facie case under Section 276CC of the Act was made out against the Petitioner in both complaints.

4. During the course of pre-charge evidence, the complainant/respondent examined CW-1, Mr. Sukhvir Singh Ruhil, who deposed regarding issuance of two notices under Section 148 of the Income Tax Act dated 11.03.2015 and 16.03.2015, purportedly served upon the accused in connection with both assessment years. CW-1 was thereafter duly cross-examined by the defence.

5. Subsequently, CW-2, Mr. R.L. Meena, appeared and produced a fresh notice dated 30.03.2015 issued under Section 148, which was not part of the original complaint records in either of the two cases.

6. Thereafter, the respondent moved applications under Section 91 Cr. P.C. in both cases, seeking permission to “place on record relevant documents” on behalf of the Income Tax Department pertaining to A.Y.



2008-09 and A.Y. 2009-10.

7. The Petitioner objected to the said applications on the ground that the documents sought to be introduced were already in possession of the complainant at the time of filing of the complaint, and that the provisions of Section 91 Cr. P.C. cannot be invoked to bring in new documents at the stage of evidence or to fill up lacunae after cross-examination of prosecution witnesses.

8. Despite the objections, the Ld. Trial Court, by impugned orders dated 25.10.2024, allowed the complainant's applications under Section 91 Cr. P.C., thereby permitting the Income Tax Department to place on record the additional documents, including the notice dated 30.03.2015, at the stage of evidence.

9. Aggrieved by the said orders, the Petitioner has preferred the present petitions contending that the impugned orders suffer from material illegality, amount to amendment of the original complaints, and cause serious prejudice to the defence by allowing introduction of new material after cognizance and partial evidence.

Submissions of counsel of petitioner

10. Learned counsel for the Petitioner, at the outset, submitted that the impugned orders dated 25.10.2024 passed by the Ld. Trial court suffers from procedural irregularity. It is contended that the Ld. Trial Court has misconstrued the scope and object of Section 91 Cr. P.C., which cannot be invoked by the petitioner to introduce documents from his own possession at the time of filing of the complaint. It is submitted that such belated introduction of documents, after cognizance has been taken and the pre-charge evidence partly concluded, amounts to filling lacunae in the



prosecution case.

11. Learned counsel argued that in both cases- pertaining to A.Y. 2008-09 and 2009-10, the complainant had initially relied upon two notices issued under Section 148 dated 11.03.2015 and 16.03.2015, which were the foundation of the complaints. However, the respondent subsequently sought to introduce a new notice dated 30.03.2015, not forming part of the complaint or pre-charge evidence, through an application under Section 91 Cr. P.C., which was impermissible in law.

12. It is further contended that the Trial Court failed to appreciate that Section 91 Cr. P.C. can be invoked only for the purpose of production or summoning of documents not in the knowledge or possession of the party seeking such production, and not for the purpose of introducing new material evidence after the commencement of trial. It is contended that the prosecution cannot be permitted to modify or supplement its case once cognizance has been taken and evidence has commenced. The impugned orders, it was submitted, prejudicially alter the nature of the prosecution case, thereby causing serious miscarriage of justice. It is prayed that impugned orders be set aside.

Submissions of counsel of respondent

13. *Per contra*, learned counsel for the Respondent/Income Tax Department supported the impugned orders and submitted that the documents sought to be placed on record are official documents forming part of the Department's record, and their production would aid the Court in arriving at a just and proper decision. It was contended that Section 91 Cr. P.C. confers wide discretion upon the Court to summon or permit production of any document necessary or desirable for the purposes of the proceedings,



and the same has been exercised judiciously by the Trial Court.

14. It was further submitted that the Petitioner cannot claim any prejudice merely on the ground that additional documents are being brought on record, particularly when the defence will have an opportunity to cross-examine the witness regarding such documents. The complainant's application was bona fide and intended only to place the complete set of relevant records before the Court.

15. Learned counsel for the Respondent also contended that the impugned orders do not result in any amendment of the complaint nor do they alter the nature of allegations against the accused. It is submitted that Section 91 Cr. P.C. can be invoked at any stage of trial where production of additional material is deemed necessary in the interest of justice.

Court analysis and reasoning

16. The court has heard the learned counsels for the parties and carefully perused the material placed on record. The petitions raise a common question of law as to whether the complainant/respondent can be permitted to place on record certain documents at the stage of evidence by invoking Section 91 Cr. P.C. when such documents were allegedly in its possession prior to the filing of the complaint.

17. It is not in dispute that in both complaint cases pertaining to A.Y. 2008-09 and A.Y. 2009-10, cognizance had already been taken in the year 2019 under Section 276CC of the Income Tax Act, 1961. The complainant had examined CW-1 and partly examined CW-2 during pre-charge evidence, when the impugned applications under Section 91 Cr. P.C. were filed to place on record additional documents, including a notice dated 30.03.2015 issued under Section 148 of the Income Tax Act.



18. The main thrust of the Petitioner's argument is that Section 91 Cr. P.C. cannot be used as a device to cure defects in the prosecution case or to fill up lacunae after the trial has commenced. However, this Court finds no merit in the said contention. The language of Section 91 Cr. P.C. is clear inasmuch as it empowers the Court to summon or permit production of any document or thing "if such production appears to the Court to be necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding." The provision does not restrict its invocation to any particular stage of the proceeding.

19. The powers of the Court under Section 91 Cr. P.C. are of wide amplitude and may be exercised at any stage of the proceeding, provided the Court is satisfied about the necessity or desirability of the document for a just decision of the case. The object of Section 91 is to enable the Court to discover the truth by ensuring that all material evidence is brought before it.

20. In the present case, the documents sought to be placed on record are official departmental notices forming part of the Income Tax record. The Ld. Trial Court, after due consideration of the rival contentions, allowed the applications observing that the production of such notices was necessary for complete and effective adjudication of the complaint. The impugned orders reflect due application of mind and record cogent reasons for permitting such production.

21. The apprehension of the Petitioner that allowing these documents would amount to amendment of the complaint or cause prejudice to the defence is misplaced. The Petitioner retains full opportunity to cross-examine the witness with respect to the additional documents and to contest their evidentiary value during trial. This Court also finds merit in the



reasoning of the Ld. Trial Court that the production of such documents does not alter the substratum of the complaint. The foundational allegation that the Petitioner failed to file returns of income despite substantial cash deposits remains unchanged. The additional document may just merely clarify the procedural compliance under the Income Tax Act and are relevant for determining the culpability of the accused under Section 276CC.

22. Viewed in this backdrop, this Court finds no infirmity, illegality, or perversity in the impugned orders passed by the Ld. Trial court. The Trial Court has exercised its jurisdiction within the bounds of law and in furtherance of justice. The power under Section 482 Cr. P.C. is to be exercised sparingly and in exceptional circumstances to prevent abuse of the process of law or to secure the ends of justice. In the present case, no such contingency is made out. The impugned orders merely facilitate production of documents of the department relevant to the determination of the issues involved in the complaints under Section 276CC of the Income Tax Act, 1961.

23. In view of the foregoing discussion and the settled position of law, this Court is of the considered opinion that the impugned orders dated 25.10.2024 passed by the Ld. Trial court in CT Case Nos. 7319/2019 and 7320/2019, do not suffer from any legal infirmity or perversity warranting interference under Section 482 Cr. P.C.

24. Consequently, both the petitions, namely CRL.M.C. No. 9563/2024 and CRL. M.C. No. 9572/2024, are dismissed as being devoid of merit. Pending applications, if any, also stand disposed of.

25. It is, however, clarified that nothing in this order shall tantamount as an expression on the merits of the case. The Trial Court shall proceed with



the matter uninfluenced by any observations made herein, which are confined solely to the adjudication of the present petitions under Section 482 Cr. P.C.

RAVINDER DUDEJA, J

OCTOBER 29, 2025
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