



CRM-M-19306-2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.282-1

CRM-M-19306-2016
Reserved on:-08.04.2026
Pronounced on:-16.04.2026
Uploaded on:- _____

Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment

AVTAR SINGH ...Petitioner

Versus

LAKHVIR SINGH AND ORS. Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. Satbir Rathoure, Advocate
for respondents No. 1, 2 and 6.

MANDEEP PANNU, J.

1. This is a petition under Section 482 Cr.P.C. for quashing of the order dated 26.02.2016 (Annexure P-6) passed by the learned Judicial Magistrate Ist Class, Phillaur in criminal complaint No. COMI/6/2015, D.O.I. 16.02.2015, titled “Avtar Singh versus Lakhvir Singh and others”, whereby the application filed by the petitioner/complainant under Section 91 of the Cr.P.C. has been declined.
2. The petitioner/complainant had moved an application under Section 91 Cr.P.C. before the trial Court seeking a direction to the accused, namely Lakhvir Singh and Gurdev Kaur, to produce the original documents including the alleged forged and fabricated power of attorney dated



28.09.2002 and the sale deeds dated 25.01.2013, 08.02.2013 and 25.04.2013. It was asserted that the said documents were fraudulently prepared by the accused in connivance with each other in respect of the petitioner's property, and the originals thereof were in their possession. It was further pleaded that the petitioner had never executed any such power of attorney and the production of these documents was necessary and essential for proper adjudication, inquiry and trial of the case, as the same would establish the allegations of forgery and fabrication. Accordingly, a prayer was made for directing the accused to produce the said original documents in the interest of justice.

3. Upon notice, the accused filed a reply opposing the application, contending that the same was false, frivolous and not maintainable. It was submitted that the documents in question are public documents and their copies are already on record, and the complainant has also cited witnesses to prove the same. It was further contended that the accused cannot be compelled to produce documents, as the same would prejudice their defence and violate their rights. It was also averred that the documents sought to be produced have been misplaced and cannot be produced at this stage, and that no ground is made out for allowing the application. The learned Judicial Magistrate Ist Class, Phillaur, vide order dated 26.02.2016, dismissed the application filed under Section 91 Cr.P.C. The Court held that though Section 91 Cr.P.C. empowers the Court to direct production of documents, the said provision cannot be invoked to compel an accused person to produce documents which may incriminate him, in view of the protection under Article 20(3) of the Constitution of India. The Court observed that the



allegations against the accused are of forging the power of attorney and executing sale deeds on that basis, and directing the accused to produce such documents would amount to compelling them to furnish incriminating evidence against themselves. It was further observed that the sale deeds are public documents and can be proved by certified copies. Accordingly, finding no merit in the application, the same was dismissed. Feeling aggrieved by the above-said order dated 26.02.2016 passed by the learned Judicial Magistrate Ist Class, Phillaur, the present petition has been filed by the petitioner/complainant for quashing of the impugned order.

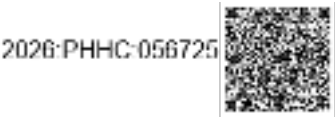
4. Learned counsel for the petitioner contends that the impugned order is illegal and unsustainable in the eyes of law, as the learned trial Court has failed to appreciate that the documents sought to be produced, i.e. the original power of attorney and the sale deeds, are crucial for just adjudication of the case. It is submitted that the entire case of the complainant is based upon the allegation of forgery of the power of attorney and consequent execution of sale deeds, and unless the original documents are brought on record, the truth cannot be unearthed. It is further argued that the learned trial Court has wrongly invoked the protection under Article 20(3) of the Constitution of India, as directing production of documents does not amount to compelling the accused to be a witness against himself. It is also contended that the accused have taken contradictory stands in civil and criminal proceedings regarding possession of the documents, and therefore, the application under Section 91 Cr.P.C. deserves to be allowed.

5. Per contra, learned counsel for the respondents/accused submits that the impugned order has been rightly passed and calls for no interference.



It is contended that the accused are not in possession of the documents in question and the same have already been misplaced and, therefore, cannot be produced before the Court. It is further argued that compelling the accused to produce such documents would prejudice their defence and violate their constitutional rights, and in these circumstances, the learned trial Court has rightly dismissed the application under Section 91 Cr.P.C.

6. I have considered the rival submissions made by learned counsel for the parties and have also gone through the record with their able assistance. At the outset, this Court finds that the reasoning adopted by the learned trial Court while dismissing the application under Section 91 Cr.P.C. is not legally sustainable. The learned Magistrate has proceeded on the premise that directing the accused to produce documents would amount to violation of Article 20(3) of the Constitution of India. Such a view is not in consonance with the settled position of law, as mere production of documents does not ipso facto amount to testimonial compulsion or self-incrimination. Therefore, the said reasoning cannot be upheld. However, the matter does not rest there. It is equally well settled that the power under Section 91 Cr.P.C. can be exercised only when the Court is satisfied that the document sought is in the possession or power of the person concerned and its production is necessary or desirable for the purposes of trial. In the present case, the specific stand taken by the accused is that the documents in question are not in their possession and have been misplaced. Once such a stand has been taken, and in the absence of any material to conclusively show that the documents are in the possession of the accused, they cannot be compelled to produce the same. Moreover, insofar as the sale deeds are



concerned, the same are public documents, and certified copies thereof can always be obtained and proved in accordance with law. Thus, non-production of original sale deeds would not cause any prejudice to the complainant.

7. In view of the above, although the reasoning assigned by the learned trial Court is found to be erroneous, the ultimate conclusion declining the application under Section 91 Cr.P.C. does not call for interference, as no ground is made out for directing the accused to produce documents which are not shown to be in their possession.

8. Accordingly, the present petition, being devoid of merit, is dismissed.

9. However, it is clarified that nothing observed herein shall be construed as an expression on the merits of the case.

10. All pending applications, if any, also stand disposed of.

16.04.2026
Anu

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No