

MHPU040820772024

SCC No. 73377/2024  
Satyaki Savarkar Vs. Rahul Gandhi**ORDER BELOW EXH. 72**

1. The complainant filed this application under Section 94 of the BNSS, seeking to obtain a copy of the book cited by accused in his speech dated 05.03.2023. He stated that the matter is posted for recording the plea of the accused, and the accused is adopting delaying tactics. He further mentioned that the book in question is necessary for a fair trial. Therefore, the complainant prayed for the application to be allowed.

2. The accused replied at Exh. 74 and strongly objected to the application, stating that the trial has not yet commenced, and the defense cannot be compelled to disclose, divulge, or submit any part of its case or documents relied upon before the commencement of the trial. The complainant is required to prove his case beyond a reasonable doubt, and the burden of proof lies entirely on the complainant. The accused is presumed to be innocent until proven guilty. If the application is allowed, it would cause serious prejudice to the accused's right to a fair trial and his right to defend himself effectively. Forcing the defense to prematurely disclose defense materials is neither permitted under criminal procedure nor compatible with constitutional guarantees. It would violate the constitutional right provided under Article 20(3) of the Constitution of India. There is no corresponding obligation on the defense to provide any material to the complainant.



The complainant cannot shift the burden of proof onto the defense at the outset, nor can the defense be expected to disprove the allegations without the complainant first making out a legally sustainable case. Lastly, he prayed for rejection of the application.

3. Heard both the learned advocates of the respective parties. It is evident from the record that the matter is pending for recording the plea of the accused. The complainant has filed a private complaint against the accused and is required to prove his case beyond a reasonable doubt. The accused cannot be compelled to disclose his defense before the commencement of the trial. The accused may produce any relevant documents during the presentation of his defense evidence. If the accused is compelled to produce such evidence prematurely, it would amount to a violation of his fundamental right guaranteed under Article 20(3) of the Constitution of India, which protects against self-incrimination. The accused is presumed innocent until proven guilty. If the application is allowed, it would cause serious prejudice to the accused's right to a fair trial and his right to defend himself effectively. There is no corresponding obligation on the accused to provide any material to the complainant.

4. The accused relied on the following cases:

i) **Rajesh T.K. vs. State of Kerala**, 2023 Supreme (Online)(KER) 17341, CrI.MC 4922 of 2023, decided on 07.07.2023. The Hon'ble Kerala High Court held that Section 91 does not compel the production of documents from an accused, thus affirming constitutional protections against self-incrimination.

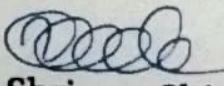


ii) **State of Gujarat vs. Shyamlal Mohanlal Choksi and Manubhai**, 14 December 1964. The Hon'ble Court held that any document or material required to be produced by the accused would not be admitted in evidence if it was found to incriminate him. In this context, Section 94(1) would not contravene Article 20(3). However, the Court observed that Section 94(1) should be narrowly construed and decided not to pursue the constitutional issue further.

5. Considering the above citations and discussions, this Court finds that the accused cannot be compelled to produce the document/book sought by the complainant. As per Article 20(3) of the Constitution of India, *"No person accused of any offence shall be compelled to be a witness against himself."* Therefore, this Court is of the opinion that an order cannot be passed directing the accused to file the incriminating documents. The documents in question are incriminating in nature and are sought to be produced against the accused. The accused cannot be compelled to be a witness against himself, nor can he be compelled to produce incriminating material against him. Hence, the application filed by the complainant is liable to be rejected and is accordingly rejected.

**(Pronounced in Open Court)**

Dt. 03/07/2025  
Pune

  
**(Amol Shriram Shinde)**  
Judicial Magistrate F.C.  
Court No. 9, Pune