

Complain Case 80 of 2024
CIS NO 80 of 2024

Order Dated: 14.10.2025

Today is fixed for hearing.

Both the parties file their respective attendance.

The petition dated 02.05.2025 filed by the complainant, Smt. Sunita Kumari, wife of Arun Kumar, has been placed before this Court for consideration of her prayer for issuance of a search warrant under Section 94 of the Code of Criminal Procedure, 1973 (CrPC) for recovery of alleged stridhan articles and educational testimonials from the house of the opposite party.

The complainant has alleged that during her marriage, her father had given cash, jewellery, and various household articles as stridhan and that all such articles, including her educational certificates, are in the custody of her husband, the opposite party herein. It is alleged that despite repeated demands, the opposite party failed to return the said articles, thereby committing an offence under Section 406 IPC.

The complainant has prayed that a search warrant under Section 94 CrPC be issued to recover her stridhan articles as per the list annexed with the petition. The opposite party, Arun Kumar, has filed his written objection, denying the allegations and asserting that many of the articles are either already in the complainant's possession or are of joint domestic use; that no theft or concealment has taken place; and that the list of items furnished by the complainant lacks identification or supporting documents. It is further submitted that the issuance of a coercive search warrant would amount to abuse of the process of law.

Before exercising power under Section 94 CrPC, the Magistrate must be satisfied that there exists reason to believe, based on credible information, that stolen property or articles connected with an offence are kept or concealed at a particular place. The phrase "reason to believe" demands objective satisfaction founded on tangible material, and not on mere suspicion, conjecture, or bald allegations.

The Hon'ble Supreme Court of India in *Mst. Mira Bala v. State of Bihar*, AIR 1959 SC 468, held that a search warrant cannot be issued mechanically, and the Magistrate must apply judicial mind to the facts and materials placed before him before authorizing such an intrusive action.

Similarly, in *State of Gujarat v. Shyamlal Mohanlal Choksi*, AIR 1965 SC 1251, it was observed that "issuance of a search warrant is a serious matter and such power must be exercised strictly in accordance with law and only when there is material to justify a reasonable belief that the articles sought to be searched are kept in the specified premises."

Further, in *Sudeep v. State of Kerala*, 2006 Cri LJ 2060 (Kerala HC), it was held that "judicial mind must be applied before issuing a search warrant, and such satisfaction must be recorded in the order itself to avoid arbitrariness."

The Hon'ble Delhi High Court, in *Neelam Sharma v. State & Anr.*, Crl. M.C. No. 3601/2011, specifically dealt with a similar situation where a wife sought a search warrant for recovery of stridhan articles. The Court held that a search warrant under Section 94 CrPC cannot be issued merely on a wife's uncorroborated allegations without any supporting proof or identification of the articles and their location. It was observed:

"The Magistrate must be satisfied, on the basis of credible material, that the articles exist, are identifiable, and are likely to be found at a particular place. A general and vague request for search of the matrimonial home to recover dowry or stridhan items is impermissible in law."

The same principle has been reiterated by the Calcutta High Court in *Sulekha Mitra v. State of West Bengal*, (2005) 3 CHN 533, holding that "search warrants for stridhan articles should be issued only when sufficient prima facie materials are brought on record to show that the items exist, are identifiable, and are unlawfully retained."

I have carefully perused the record of the case, the complaint petition, the list of alleged stridhan articles annexed thereto, as well as the written objection filed by the opposite party. Upon a thoughtful consideration of the materials placed before this

Court, it appears that the complainant has not produced any documentary or other convincing evidence in support of her claim regarding the entrustment or present existence of the alleged stridhan articles in the possession of the opposite party. The list of articles filed along with the petition is of a general nature and does not contain any distinct particulars or identification marks by which the said items could be verified or located. No receipts, purchase bills, marriage photographs, witnesses to entrustment, or any contemporaneous record have been filed to substantiate that the properties mentioned therein were, in fact, handed over to the accused for safe custody at the time of marriage.

A mere assertion by the complainant that her ornaments, household goods, and educational certificates are lying at the house of her husband, without any corroborative material, cannot furnish this Court with the statutory satisfaction contemplated under Section 94 of the Code of Criminal Procedure. The expression "reason to believe," as employed in the said provision, mandates that such belief must rest upon some tangible and credible information leading to a definite inference that stolen or illegally retained property is concealed at a specified place. Bare suspicion or unverified allegations do not meet the legal threshold for issuance of a search warrant.

It is further noticed that the opposite party, in his written objection, has not admitted any act of misappropriation of the alleged stridhan articles. Rather, he has contended that certain items are of joint domestic use, some are already with the complainant, and some are damaged or no longer available. He has also expressed his readiness to hand over such articles as may be lawfully claimed. In such circumstances, there is no material to prima facie indicate that the articles complained of are being wrongfully withheld or have been dishonestly converted to the use of the accused so as to constitute the offence of criminal breach of trust under Section 406 IPC.

Further, no material has been brought on record to suggest that there exists any imminent apprehension of destruction, concealment, or disposal of the alleged articles. In absence of such circumstances, authorizing a coercive search of the matrimonial home would amount to allowing a roving or fishing enquiry, which is impermissible in law. The Hon'ble Supreme Court as well as various High Courts have repeatedly cautioned that the power to issue search warrants is to be exercised with great circumspection and only upon due judicial satisfaction founded on credible material.

Having regard to the totality of the facts and materials on record, this Court is not satisfied that there exist any justifiable grounds to form the "reason to believe" required under Section 94 CrPC. Consequently, the prayer for issuance of a search warrant for recovery of the alleged stridhan articles does not merit acceptance at this stage.

In view of the foregoing discussion and the settled principles of law laid down by the Hon'ble Supreme Court and various High Courts, this Court holds that there is no sufficient material or reason to believe that any stolen or illegally retained property is lying or concealed in the house of the opposite party so as to warrant the issuance of a search order under Section 94 of the Code of Criminal Procedure.

Accordingly, the petition dated 02.05.2025 filed by the complainant, Smt. Sunita Kumari, praying for a search warrant under Section 94 CrPC is hereby rejected.

The complainant is, however, at liberty to adduce credible evidence during the course of inquiry or trial to establish entrustment, ownership, and misappropriation of her stridhan articles, and may renew her prayer, if so advised, at an appropriate stage in accordance with law.

Fix 20.11.2025 for EBC

D/C by me

JM1

Judicial Magistrate 1st Court
Raghunathpur, Purulia