

CRM-M-31565-2015 AND
CRM-M-33265-2015

N.C. No. 2023:PHHC:081171

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-31565-2015(O&M)
Decided on : 01.06.2023

M/s Shree Bala Ji Pesticides and Seed Store and another
... Petitioners

Versus

State of Punjab
... Respondent

AND

Dharmendra Panwar and others
... Petitioners

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sunil Chadha, Senior Advocate with
Ms. Devyanshi Sharma, Advocate for the petitioners in CRM-
M-33265-2015.

Mr. Ishmat Singh, Advocate for
Mr. Sherry K. Singla, Advocate
for the petitioners in CRM-M-31565-2015.

Mr. H. S. Sullar, Sr. DAG, Punjab

AMAN CHAUDHARY, J.

1. The present petitions involve common questions of law and facts and are thus being decided together.
2. Prayer in the aforesaid petitions filed under Section 482 of the Code of Criminal Procedure is for quashing of complaint No. 31 dated 02.07.2014 under Sections 3(K)(I), 17, 18, 29 and 33 of the Insecticide Act, 1968 read with Rule 27 (5) of Insecticide Rules, 1971 and summoning order

dated 02.07.2014, Annexure P-2, passed by Chief Judicial Magistrate, Bathinda.

3. The first petition, bearing CRM-M-31565-2015, has been preferred by M/s Shree Bala Ji Pesticides and Seed Store, a firm, through its proprietor Sh. Sanjeev Bansal, involved in advertising and marketing of insecticides manufactured by M/s Rallis India Ltd., Bathinda. Petitioners in CRM-M-33265-2015 are Sh. Dharmendra Panwar, Asst. Regional Manager, Sh. Veermani Shankar, Executive Director, Sh. Ram Kishan V. Rajbhar, Quality Control Manager and Sh. Pardeep Rastogi, Godown Incharge of the manufacturing company-M/s Rallis India Ltd., Bathinda.

4. The brief facts that emerge from the compliant are that the complainant-Food Inspector drew a sample from an originally sealed packet on 01.06.2010, of one pesticide i.e. Cartap Hydrochloride 4% GR bearing Batch no. PI00875, from the premises of M/s Shree Balaji Pesticides and Seeds Store, manufactured in the month of February, 2010 by M/s Rallis India Limited with an expiry after two years. It was sent for testing and the report of the first sample was received on 17.06.2010, declaring it misbranded. However, the sanction of prosecution was granted by the competent authority on 06.05.2014, whereafter the complaint in question was filed on 04.06.2014, wherein the petitioners were summoned by passing of an order of even date.

5. Learned counsel for the petitioners submitted that the complaint is barred by time as per Section 468 Cr.P.C., since it was filed after a delay of more than 3 and a half years. The petitioners in CRM-M-31565-2015, are

only the dealers and thus are not liable to be prosecuted as per Section 30(3) of the Insecticides Act 1968, for the product that was found to be misbranded. Still further, there are no specific averments in the complaint with regard to the petitioners in CRM-M-33265-2015, being responsible for the day-to-day conduct of the business, therefore, no liability can be fastened on them. Reliance is placed on **State (NCT of Delhi) vs. Rajiv Khurana**, (2010) 11 SCC 469, **Sher Singh and another vs. State of Punjab**, CRM-M-17705-2018, decided on 05.02.2019 and **Cheminova (India) Ltd. vs. State of Punjab**, (2021) 8 SCC 818.

6. Learned State counsel on the other hand had contended that the delay in filing the complaint was caused as some time was consumed in granting approval by the sanctioning authority, as such the said period be excluded. In this regard, various reminders were also sent by the Department. An application had also been filed under Section 5 of the Limitation Act for condonation of delay, along with the complaint. He relies on **Girish Kumar Suneja vs. CBI**, (2017) 14 SCC 809, **Jasvir Singh vs. Karan Singh**, CRM-M-28235 of 2021 decided on 16.08.2021 and **Kuldeep Singh @ Chandernath Baba Ji vs. State of Haryana and anr.**, CRM-M-53225 of 2021 decided on 10.01.2022. All the petitioners had rightly been arrayed and were liable to be prosecuted, being responsible for the day to day conduct of the business.

7. In rebuttal, learned counsel for the petitioners asserted that without first inquiring about the application seeking condonation of delay filed under Section 473 Cr.P.C. the trial Court initiated the criminal

proceedings. Even otherwise, the delay was not duly explained, thus making it not maintainable. The cause of action to file the complaint arose on the receipt of the first report of the public analyst, which was 17.06.2010, whereas the complaint has been filed on 04.06.2014, making it a delay of 3 years 11 months and 18 days. The application for condonation of delay was also not decided and it does not thus help the State.

8. Heard and perused the files.

9. At the outset, it would be worthwhile to make a reference to the order of this Court, passed on 01.12.2016, that reads thus:

“In the present petition, there is a challenge to the summoning order of the petitioners, dated 2.7.2014, in Complaint case No.278/14 filed by a public servant under the provisions of the Insecticides Act in the court of Chief Judicial Magistrate, Bathinda.

Learned Counsel for the petitioners submits that the impugned order to the proposed accused dated 2.7.2014 is sans any reasons as required by law as summoning of an accused is a serious step. He then invited my attention to the photocopy of the application dated 4.6.2014 signed by the Insecticides Inspector, District Bathinda in his own hand-writing addressed to the court of Chief Judicial Magistrate, Bathinda, which is taken on record and marked as 'X' for identification.

Learned Counsel for the petitioners to file typed copy thereof on affidavit on the record of this case. Learned Counsel for the petitioners contended that the said application, marked as 'X' for identification, was for condonation of delay for filing the private complaint and the delay was almost of a year. In his submission, the trial court could not have issued summons to the accused without first dealing with the application for condonation of delay, which was admittedly filed by the Inspector. He submits that there is no evidence anywhere even in the zimni orders that the said application was at all considered. Even as a matter of fact, the trial court should not have proceeded to issue summons without deciding the application for condonation of delay under Section 468 Cr.P.C.

On behalf of the respondent-State, Insecticides Inspector Sushil Kumar who himself had filed the complaint before the trial court is present in Court today, submits that after the samples had failed, he had referred the case to the Joint Director, Agriculture Department, Punjab for necessary sanction in terms of Section 31 of the Act and had also sent reminders dated 14.2.2011, 10.5.2011, 1.6.2012 and 28.1.2014 but the sanction was actually made on 6.5.2014. It is thus clear that there is a delay on the part of the sanctioning authority, namely, the Joint Director for almost three and a half years. At the relevant time, Joint Director was Harvinder Singh Bhatti who is stated to have retired from service recently.

In my opinion, prima facie, the sanctioning authority, the Joint Director, is responsible for delay in filing the complaint before the court as sanction/consent itself was given after three years for which there can be no justification particularly when such complaints are required to be filed immediately in the court in order that the technical defences are not available.

In the meanwhile, Learned Counsel for the State wants to find out whether the application for condonation of delay was decided or not. In that view of the matter, proceedings are adjourned to 20.12.2016 for further hearing.

Learned Counsel for the petitioners is also expected to address this Court with supporting material as to whether proposed accused, before summoning order, has the locus to address the trial court on the issue of condonation of delay in the private complaint when the law is well settled that the proposed accused cannot participate in the proceedings before the summoning order is issued by the trial court.

Shri Harvinder Singh Bhatti, Joint Director (since retired) is directed to file an affidavit as to the delay in recording consent for filing the complaint before the trial court by the next date.

A copy of this order under the signatures of the Bench Secretary be handed over to Learned Counsel for the State.”

10. In the present case, as is explicit and a fact admitted from the record, that the sample was drawn on 01.06.2010, which as per the first

Analyst report dated 17.06.2010 was found to be misbranded, whereas the complaint in question was lodged on 04.06.2014.

11. In light of the submissions as advanced by learned counsel for the parties, it will be apposite that the relevant provisions of law be referred to, which read thus:

“468. Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) six months, if the offence is punishable with fine only

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

469. Commencement of the period of limitation.-

(1) The period of limitation, in relation to an offender, shall commence,-

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

470. Exclusion of time in certain cases

(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts' and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation. In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other limitation, the time during authority shall both be excluded.

(4) In computing the period of which the offender- (a) has been absent from India or from any territory outside India which is under the administration of the Central Government, or (b) has avoided arrest by absconding or concealing himself, shall be excluded.

Section 29 (1) (i) of the Insecticides Act reads thus:

"(i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both; tc" (i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both;"

12. Hon'ble The Supreme Court in **Cheminova India Limited** (supra) held that the crucial date of commencement of period of limitation would be the date of first analysis report and merely because a further request made for sending sample to Central Insecticide Testing Laboratory, as contemplated under Section 24(4) of the Act, the report of which is received subsequently cannot be the basis for commencement of period of limitation. Thus, the complaint lodged after three years from the date of receipt of the first report was barred by limitation. As such, allowing the proceedings to go on based on such a complaint was found to be an abuse of process of law.

13. The relevant paras of the application seeking condonation of delay, which though without being decided, the summoning order was passed, read thus:

“3. That the necessary sanction/Consent (Annexure-4) to launch prosecution u/s 31(1) of the Insecticides Act 1968 has been obtained from the Joint Director Agriculture (Plant Protection) Punjab, Chandigarh. (The Competent authority) by requesting and reminding them my Chief Agriculture Officer, Bathinda vide letter No. 1050 dated 14.02.2011, letter No. 3168 dated 10.05.2011, letter No. 4030 dated 01.06.2012 and letter No. 565 dated 28.01.2014 for the justice and in good faith. (Annexure-27).

4. That in the exercise of duties conferred upon me vide Punjab Govt. Notification reference No. S.O.90/C.A. 46/68/8.20/91 dated 30.10.1991 (Annexure-1). I Sushil Kumar Insecticide Inspector, Sangat Mandi, Distt. Batinda in performance of my official duties inspected the premises of M/s Shree Bala Ji Pesticides & Seed Store, Sangat Mandi on dated 01.06.2010 in the presence of Sh. Hardev Singh Junior Technician, Sagnat Mandi. I tried to join independent witnesses from the same locality but none had come forward to join me. I gave my identity as Insecticides Inspector, Sangat Mandi to

Sh. Sanjeev Bansal s/o Sh. Gandhi Ram proprietor M/s Shree Bala Ji Pesticides & Seed Store, Sangat Mandi who was present at the time of inspection, I found 995 Kg of Cartap Hydrochloride 4% GR pesticide bearing batch No. P100875 manufacturing date 24.02.2010 and expiry date 23.02.2012 in 5 Kg. packing supplied by M/s Rallis India Ltd. Bathinda, displayed at the premises for sale. Out of these 199 packet x 5Kg I selected one packet of 5 Kg. for sampling and 900 gm. of Cartap Hydrochloride 4% GR pesticide was purchase vide bill No. 2950 dated 01.06.2010(Annexure-6).

6. That one sealed sample was deposited in the office of Chief Agriculture Office Bathinda vide letter No. 319 dated 02/06/2010 to Sh. Harbans Singh Agriculture Development Officer, Bathinda along with two form No. XXI in the intact position (one sealed & other open) and two open form no. XX and one stock position of Pesticide Cartap Hydrochloride 4% GR from Sh. Sanjeev Bansal proprietor of Shree Balaji Pesticide & Seed Store, Sangat Mandi(Annexure-8). The 2nd sealed sample (reference sample) deposited to Sh. Gurmej Singh Assistant Plant Protection Officer, Bathinda in intact position vide letter No. 320 dated 02/06/2010 (Annexure-9). The Chief Agriculture Officer, Bathinda sent one sealed sample in intact position along with form No. XXI to Senior Analyst, Insecticides Testing Laboratory Ludhiana vide his letter No. TA-12 dated 08.06.2010 through Sh. Gurjeet Singh, Beldar, Bathinda (Annexure-10).

7. The test report of sample was received from Senior Analyst, Insecticides Testing Laboratory Ludhiana in the office of Chief Agriculture Office, Bathinda on dated 17.06.2010 vide letter no. AR-TA/39, 14.06.2010 (Annexure-11). The sample was declared misbranded as it does not confirm to IS specifications in its active ingredient as contents were found to be only 3.46% GR instead of 4%GR Cartap Hydrochloride pesticide (Annexure-12), The sale of Cartap Hydrochloride 4% GR of the Prop. M/s Shree Bala Ji Pesticide & Seed Store, Sangat Mandi, Distt. Bathinda was stopped by me. (enclosed photostate copy of the sale and stock register of Pesticide of the concerned dealer (Annexure-23).”

14. In facts somewhat similar to that of the case at hand, there having been found to be no pleading in the application with regard to the

explanation from the date of receipt of public analyst report till the date on which application was filed for seeking sanction, as also it was filed under Section 5 of the Limitation Act instead of Section 473 Cr.P.C., this Court in **Sohan Singh vs. State of Punjab**, 2018 SCC OnLine P&H 7093, allowed the petition and held that even if the Trial Court would have so considered fit to apply its mind to extend the time, there would not have been any material before it to extend the time, paras as relevant to this case read thus:-

“8. Much reliance has been placed by learned State counsel on the application moved by the complainant for extension of time, as permitted by section 473 of Cr.P.C, 1973 To buttress his argument, learned State counsel has relied upon the explanation given in the application moved for condonation of the delay which has occurred in filing the complaint. The relevant para of the application is reproduced hereinbelow:-

‘5. That the office of Chief Agriculture Office, Bathinda applied for sanction for the prosecution of the accused with the Joint Director, Agriculture (Plant protection) Punjab and the sanction for prosecution of the accused was granted by the competent authority on 7.4.2017. And it was received in the officer of the Chief Agriculture Office on 17.04.2017.

6. That the entire file remained in custody of the concerned official of the office of Chief Agriculture Office, Bathinda and was never entrusted to the complainant for filing the complaint.

7. That the file was handed over to the complainant on 28.04.2017 and the remaining documents(Form no.XX, insecticide purchase bill and letters through which sample was sent from AO Maur to CAO Bathinda, AO Maur to APPO Bathinda and from CAO Bathinda to lab) were handed over to the complainant on 02.01.2018. Thereafter the complainant completed the entire file and got prepared the complaint.’

9. A bare perusal of the above said pleading of the complainant, submitted for seeking explanation of time shows that, in fact, there is no explanation furnished by the complainant in this case for the delay which has occurred in filing the complaint. The explanation of the delay is given only from the date of applying for sanction

for filing a complaint, dated 20.02.2017 till the date of grant of sanction, i.e. 17.04.2017. However, there is not even any pleading as to what is the explanation for the period from 17.07.2012 till 20.02.2017.

10. In view of the above, even if the Trial Court would have so considered fit to apply its mind to extend the time, there would not have been any material before the Trial Court to extend the time. The prayer made by the Complainant; for extension of time, is without any basis being disclosed on the record of the case. Hence even the application and prayer for extension of the time is insignificant qua the case of the petitioner.”

15. In so far as the submission of the learned State Counsel with regard to the exclusion of period spent for seeking sanction while computing, the period of limitation as per Section 470(3) Cr.P.C. is concerned, a gainful reference can be made to the judgment in **Sarah Mathew vs. Institute of Cardio Vascular Diseases**, (2014) 2 SCC 102, wherein Hon’ble The Supreme Court held that the only harmonious construction which can be placed on Sections 468, 469 and 470 of the CrPC is that the Magistrate can take cognizance of an offence only if the complaint in respect of it, is filed within the prescribed limitation period. Complainant would, however, be entitled to exclude such time as is legally excludable. For exercise of power under Section 5 of the Limitation Act, the onus is on the applicant to satisfy the Court that there was sufficient cause for condonation of delay, whereas, Section 473 enjoins a duty on the Court to examine not only whether such delay has been explained but as to whether, it is the requirement of justice to ignore such delay.

16. It would be pertinent to notice that since the punishment prescribed for the offence under Section 29 of the Insecticides Act is two

years, thus, the period for taking cognizance as envisaged under Section 468 Cr.P.C. is three years. Undeniably, the sample was drawn on 01.06.2010 which as per the first Analyst report dated 17.06.2010 was found to be misbranded, whereas the complaint in question was instituted on 04.06.2014, which is thus, barred by limitation. This Court had directed an affidavit to be filed by Sh. Harvinder Singh Bhatti (who had since retired but was the Joint Director at the relevant time), as to the delay in recording consent for filing the complaint before the trial. The relevant paras of the affidavit dated 20.12.2016 filed by him read thus:

“4) That I worked as Joint Director Agriculture (Plant Protection) Punjab from 09.08.2012 to 10.10.2014 in the office of Director Agriculture, Punjab.

5) That I retired as Joint Director Agriculture (HYVP) on 31.01.2015.

6) That on the Dated 01.06.2010, Sushil Kumar, Insecticide Inspector Sangat Mandi drew a sample of Cartap hydrochloride 4% GR manufactured by Rallies India Limited, from the premises of M/S Shri Balaji Pesticides And Seed Store, Sangat Mandi, Distt. Bathinda.

7) That a complaint was to be filed in the court by the Department of Agriculture.

8) That the letter regarding the sanction under Insecticide Act 1968 under clause 31 received by this office i.e. Joint Director Agriculture (Plant Protection) on 08.06.2012.

9) That on Dated 08.06.2012, the case was sent to Deputy Director LCPP Chandigarh for the want of relevant record.(It is pertinent to mention here that the whole record remains with the office of Deputy Director (LCPP) Chandigarh) for the purpose of granting sanction for prosecution.

10) That a reminder for the said purpose was sent by (Nirankar Singh Saran) by Joint Director Agriculture (Plant Protection) (the earlier incumbent) on 28.06.2012 vide letter number 1752.

11) That the subsequent reminder letters Dated 03.12.2012 vide Memo no. 3492 and Dated 21.02.2013

vide Memo no. 661 were sent to the Deputy Director LCPP by the deponent.

12) That the Deputy Director LCPP submitted the relevant record on 14.03.2013 vide letter no. 371.

13) That as and when the relevant record was put before me, the necessary sanction was issued by this office vide Memo no. 419-21 Dated 31.03.2014 to the concerned.”

16. Implicit it is from the averments made in the above affidavit that the records were received on 14.03.2013, yet about 1 year more was consumed to grant the necessary sanction, regarding which there is want of explanation. Still further, the Deputy Director, who granted the sanction, had also filed an affidavit dated 17.02.2017, pursuant to direction passed by this Court vide order dated 20.12.2016, wherein he had shifted the liability on the previous Deputy Director. The para relevant of the said affidavit reads thus:

“3. That before joining of deponent as Deputy Director (LCPP) on 04.08.2012, Sh. Jasbir Singh Bains was Deputy Director (LCPP) and during his tenure, one letter dated 08.06.2012 was received on 15.06.2012 from the office of Joint Director, Agriculture (Plant Protection) for sending the documents regarding Rallies India Limited. This letter was replied by him vide letter dated 19.06.2012 and requisite documents were sent to the office of Joint Director, Agriculture (Plant Protection) again sent a letter dated 28.06.2012 for more documents and this letter was received during the tenure of Sh. Jasbir Singh Bains as Deputy Director (LCPP) where he remained till 03.08.2012 and it is he who can give his better response to the fate of the letter dated 28.06.2012.”

17. From a perusal of the averments made in the application seeking condonation of delay as also the above affidavits, this Court finds there to be no justification that comes forth for explaining the delay that could have been condonable by the trial Court, had the application been also

decided. Merely to state that the competent authority granted sanction belatedly, cannot be considered as a cause, much less sufficient, moreso when it is inter-departmental and by a blame game that the fault was on part of one officer or the other, for which perhaps liability could be fastened or action initiated by the State but sure enough neither the same is excludable nor can the petitioners be made to face such proceedings, that are barred as per the provisions of Section 468 CrPC since, the first Analyst report is dated 17.06.2010, which commenced the period of limitation, while the complaint in question was instituted on 04.06.2014.

18. This Court in **M/s Doaba Seeds Store vs. State of Punjab**, 2018(4) Law Herald 3396, **M/s Singla Kheti Sewa Kender and another vs. State of Punjab**, CRM-M-36938-2016, decided on 06.12.2019 and **Zamidara Kheti and another vs. State of Punjab**, 2019(1) RCR (Crl.) 288, had quashed the respective complaints and summoning orders, they being barred by time, by observing that the delay caused by the complainant has resulted in misuse of the process of law and in defeating the ends of justice, thus, initiation and continuation of the complaint against the petitioners is not legally justified and sustainable.

19. Considering the peculiarity of facts and circumstances of the case, the continuation of proceedings against the petitioners would amount to an abuse of the process of law in light of the judgment by Hon'ble The Supreme Court in **Cheminova India Limited** (supra), wherein it was held that “we are clearly of the view that the complaint filed is barred by limitation and allowing the proceedings to go on, on such complaint, which

is ex facie barred by limitation is nothing but amounts to abuse of process of law.” Further, in **Jugesh Sehgal vs. Shamsheer Singh Gogi, (2009)14 SCC 683**, it was observed and held that, “The scope and ambit of powers of the High Court under Section 482 of the Code has been enunciated and reiterated by this Court in a series of decisions and several circumstances under which the High Court can exercise jurisdiction in quashing proceedings have been enumerated. Therefore, it is unnecessary to burden the judgment by making reference to all the decisions on the point. It would suffice to state that though the powers possessed by the High Courts under the said provision are very wide but these should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. The inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. The powers have to be exercised sparingly, with circumspection and in the rarest of rare cases, where the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed.”

20. It was held by Hon’ble The Supreme Court that it is the duty of the High Court to look into each and every case with great detail to prevent miscarriage of justice.[See **Hasmukhlal D. Vora vs. State of T.N., 2022 SCC OnLine SC 1732**]

21. As a corollary to the above discussion, the present petitions are hereby allowed and the complaint No.31 dated 02.07.2014, titled as "State vs. M/s Shree Bala Ji Pesticides and Seed Store and others (Annexure P-1) as well as the summoning order dated 02.07.2014 (Annexure P-2) are quashed.

(AMAN CHAUDHARY)
JUDGE

01.06.2023
Mehak

Whether reasoned/speaking : Yes / No

Whether reportable : Yes / No