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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-D-350-DBA-2002  
Date of Decision: 17.05.2024

Union Territory, Chandigarh ...Appellant

Vs.

Karnail Singh ...Respondent

(ii) CRA-D-351-DBA-2002

Union Territory, Chandigarh ...Appellant

Vs.

Kamaljit Kaur and Anr. ...Respondents

(ii) CRA-D-352-DBA-2002

Union Territory, Chandigarh ...Appellant

Vs.

Naveen Kumar Bhasin ...Respondent

Coram : Hon'ble Mr. Justice Gurvinder Singh Gill  
Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. J.S Toor, APP. for U.T., Chandigarh.

Mr. Karambir Singh Kahlon, Advocate as  
Amicus Curiae for the respondents (in all the cases).

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N.S.Shekhawat J.

1. By way of common judgment, this Court shall dispose off three criminal appeals i.e. CRA-D-350-DBA-2002 titled as Union Territory, Chandigarh Vs. Karnail Singh, CRA-D-351-DBA-2002 titled as Union Territory, Chandigarh Vs. Kamaljit Kaur and Anr. and CRA-D-352-DBA-2002 titled as Union Territory, Chandigarh Vs. Naveen Kumar Bhasin.



2. In the present appeals, the Union Territory of Chandigarh has challenged the impugned judgment dated 28.09.2000, passed by the Court of Additional Sessions Judge, Chandigarh, whereby, the respondents in all the three appeals have been ordered to be acquitted in a case arising out of FIR No. 1025 dated 05.09.1979, under Sections 420,467,468,471,472,474,120-B of IPC, Police Station Central, Chandigarh.

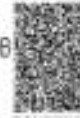
3. Since same question of facts and law are involved in all the three appeals, the same are being taken up and disposed off simultaneously.

4. The FIR in the present case was registered on the basis of the statement made by HC Harnam Singh. The FIR and the initial proceedings have been reproduced below:-

*"I am posted at C.I.D Wing, I.G Office, U.T, Chandigarh, Sector-17. Today, I along with HC Banwari Lal (who is also posted in C.I.D) was standing at ground floor of our office. Then, a person identified himself as Kartar Singh working as typist at back side of Estate Office said to me that a hair cut person, who possessed the printed form of Punjab School Education Board, whose Punjabi portion was filled whereas the English portion of it was not filled had given it to Bhasin typist for getting typed. A young turbaned person had also accompanied aforesaid person. On his asking, Bhasin (typist) was typing that form with on his type machine. In his view, the said matter seemed fraud. Therefore, he was going to give information about the said matter to the officers in office at upper floor. Then, I along-with Banwari Lal (HC) and Kartar Singh (typist) went to the 'Veranda' of Estate Office, where all typists sit. Bhasin (typist) had kept inserted the certificate of passing of Punjab School Education Board in his typewriter. At that moment, two persons (whose names were known as Karnail Singh and Jagir Singh later on)*



*were sitting beside him and were making the typist to type. I and Banwari Lal were wearing civil uniform and Kartar Singh kept on watching him typing. After completing the typing of English portion, the typist handed over the certificate to Karnail Singh. Then, Karnail Singh asked Jagir Singh to take out Rs 5/-. Accordingly, Jagir Singh took out Rs 5/- and gave it to the typist as fees. After that, Karnail Singh starting keeping the said certificate in his pocket by folding it. Then, he and Jagir Singh were caught on the spot. In addition to the certificate, which was got typed (being written/prepared in Hindi and English language) bearing No.524901 and roll No.72582 of Punjab School Education Board in respect of Jagir Singh s/o Niranjan Singh, District Gurdaspur, a mark-sheet bearing roll No.72582 and serial No.086468 in respect of Jagir Singh s/o Niranjan Singh was also recovered from the possession of Karnail Singh. The recovered documents were taken in possession and presented before you together with Karnail Singh and Jagir Singh. HC Banwari Lal has also accompanied and action may be taken. Sd/- Harnam Singh Attested/- Ram Parkash (A.S.I). Today, HC Harnam and Banwari Lal, C.I.D, U.T Chandigarh come present to the police station and produced Karnail Singh and Jagir Singh together with the mark sheet No.086468 and the Punjab School Education Board Matriculation Certificate No.524901. They got recorded their statement, which was read over to them and he appended his signatures thereon, while admitting the same correct. I attest the same. The mark-sheet and certificate are taken in possession of police as evidence(s). On the basis of statement, the commission of an offence(s) under section 468 and 420 IPC is made out. After registering the case, I (A.S.I), along-with Constable Jagdish (illegible) and Kishori Lal No.812, am proceeding towards spot for conducting the investigation. The copies of F.I.R will be sent to the information of officers. Sd/-Ram Parkash, A.S.I, P.S.V.*



5. After the registration of the FIR, the usual investigation was conducted in the present case and the final report under Section 173 Cr. P.C was presented before the Court of Area Magistrate/Trial Court. Vide the judgment of conviction and order of sentence dated 29.11.1994, passed by the Court of Judicial Magistrate Ist Class, Chandigarh, the respondents Karnail Singh and Naveen Kumar Bhasin were held guilty for the commission of the offence under Section 465 of IPC, whereas, Mrs. Kamaljit Kaur and Mohinder Singh, respondents were held guilty for commission of the offences punishable under Sections 474 and 475 of IPC and were sentenced to undergo rigorous imprisonment for a period of two years alongwith fine of Rs.1500/- each under Section 474 of IPC and further sentenced to undergo a rigorous imprisonment for a period of three years alongwith fine of Rs.2000/- each under Section 475 of IPC.

6. The respondents preferred three separate appeals before the Court of Sessions Judge, Chandigarh and vide the impugned judgment dated 28.09.2000, the Court of Additional Sessions Judge, Chandigarh, acquitted all the respondents of the charge. Challenging the impugned judgment, the Union Territory of Chandigarh has preferred three separate appeals before this Court.

7. During the course of trial, the prosecution examined 10 witnesses to prove the charge against the respondents. The prosecution examined Raghbir Singh as PW-1. As per him, on 10.09.1979, he went on his vehicle and was on the back side of Estate Office. Typewriter No.241016 was taken into possession



in his presence from Naveen Bhasin, accused vide the recovery memo Ex.PA and his signatures were obtained on the memo. However, in his cross-examination, he admitted that at that time, Yad Ram and ASI Ram Parkash were with him and the other police officials were also with him. On the memo, he and Yad Ram had put their signatures. However, on the memo Ex.PA neither his signatures was there nor signatures of Yad Ram were there. Many peoples were also there, but no one was made witness. Harnam Singh, HC (Retired) was examined as PW-2, who reiterated the averments made by him in the FIR. As per him, Karnail Singh, accused asked Jagir Singh, accused to give Rs.5/- to Naveen Bhasin, typist as typing charges, which were given by Jagir Singh, accused. In his cross-examination, the said witness stated that he had got recorded that Mohinder Singh and Jagir Singh were getting typed some certificates, whereas, in his examination-in-chief, he had named Karnail Singh and Jagir Singh and he was confronted with the same. He admitted that so many typists as well as number of lawyers used to sit in the Estate office, Chandigarh and they had not taken any person from the lawyers/typists in order to accompany them in the police station. He stated that signatures of Karnail Singh and Jagir Singh were obtained on the seizure memo, which was prepared by the Duty Officer in police station. He admitted that the memo Ex.PW-2/A i.e the seizure memo was not bearing the signatures of Karnail Singh, Jagir Singh, both accused and Naveen Bhasin, typist. The prosecution further examined C. Gurmail Singh as PW-3, who was posted on general duty at Police Station Division No.6, Model Town, Jalandhar on 08.09.1979. He was accompanying the Chandigarh Police at the time of search of the house of Mohinder Singh and



Kamaljit Kaur. The prosecution further examined Janak Raj as PW-4, who turned hostile. He stated that he never met police. Ex. PW-3/A was signed by him, but the police had taken his signatures on plain papers. He denied that the police had gone to the house of Mohinder Singh. He further denied that he met Kamaljit Kaur. The prosecution further examined Balwant Singh, DSP as PW-5, who was posted as S.I. in the year 1983. He stated that the investigation of this case was handed over to him on 30.08.1984. During investigation, the typewriter, which was used for certificate typing by the accused was taken into possession from Naveen Bhasin, accused. After completion of the investigation, the challan was prepared by Baldev Singh. The prosecution further examined PW-6, HC Ratti Ram, who had deposited the case property in the *Malkhana*. Pargat Singh was examined as PW-7, who stated that he had rented the house to Mohinder Singh, accused. But he did not know as to who lived with Mohinder Singh at home. His neighbour had rented his house to Mohinder Singh. He never went to take the rent and had taken the possession of the vacant house. He did not know when Mohinder Singh had vacated his house. He was declared hostile and was cross-examined. The prosecution further examined K.N Parshad, Junior Scientific Officer (Document), CFSL, Chandigarh as PW-8. He stated that in the present case, the relevant extract of his testimony has been reproduced below:-

*“In this case I have examined the discript mark Q1 on the Punjab School Education Board Matric Certificate No. 524901 in respect of roll No.72582 held in March, 1978. I have compared this disputed typescript with the standard typescript on 3 sheets mark ST1 to ST3. The marking sign the disputed certificate and standard typewritings or in the handwriting of my assistant Sh. S.K Rampal*



*which I identify. Certificate Q1 is Ex.PW/8A and the specimen sample typescript are Ex. PW8/B to PW8/D.*

*As a result of my examination I am of the opinion that the disputed typescript mark Q1 on the standard typescript mark ST1 to ST3 have been typed on one and the same typewriter. My opinion is based on the reasons that a typewriter is a machine in which its character is printed in event, uniform impression resting across an imaginary line. But this is not perfectly achieved and a typescript are identify on the basis of a type impression qua their size, Design, alignment differentiate of the type faces and a defects which occurring in the type faces due to their bear and tear are use. I have observe these defects in between the disputed typescript and the standard typescript on their side by side comparison as mentioned in my report Ex. PW8/E. This report is correct and signed by me. Photographs of the disputed and standard typescripts are Ex.PW8/1 to PW8/4 and the negatives are Ex. PM8/5 to PW8/8. The photographs of the disputed and the sample typescript are not prepared personally by me. They were photographed in the photo section of the laboratory under my inspection, I have checked the negatives with the original. It is correct that the photographs are not prepared in my presence. These photographs were prepared by Sh.D.R Tejpal Incharge photographer whose signatures are on the back side on the photographer which I identify. It is correct that the size, design of the type faces in two typewrite of the same model will be similar. It is correct that a number of typewriter of the same make of the same model are manufactured by the manufacturing company. I have not given the detail reasons qua to the principal of the typewriter identification, otherwise the main reason given in the report. As far as I remember I have not examined any writing of signatures in this case because no such report on the case file. The sample typescript Ex. PW8/B to PW8/D do not contains the*



*particular of the case, to which these pertains to volunteered. They were received for comparison in this case.*

*I did not receive the question script and sample script personally from SSP Police. They were received by the Director Dr. B.R. Sharma who endorsed the case to the document expert for examine the case. There is no document of case file which may indicate that the documents were allegedly received by Sh. B.R. Sharma Director or mark B for examination. Volunteered. Such record is in the office of CFSL, Chandigarh. I have brought the concerned case file of the said case and not the entire case. I did not examine the typewriter on which the sample typescript mark were allegedly typed. It is incorrect to suggest that my report is erroneous not being based upon cogent reasons.*

8. The prosecution further examined H.C Pritpal Singh as PW-9, who had joined the investigation in the present case on 08.09.1979. He stated that the police went to the house of Mohinder Singh, but Mohinder Singh was not found present there. However, his wife Mrs.Kamaljit Kaur was found present there. One store room in the house was locked from the outside and ASI Ram Parkash asked her to open the lock of the store, but she stated that she was not having any keys of the store and ASI Ram Parkash had broken open the lock of the said store in his presence and a search was conducted. One suitcase red in colour was found and certificates of different universities and boards were found there. ASI Ram Parkash prepared the details of certificates, blocks, stamp seals etc., which were recovered from the store and these were attested by Devinder Mohan Sharma and Janak Raj-PW4 and two other constables. In his cross-examination, he stated that he did not know whether any search warrant was with the I.O to search the house and to break the lock of the store. He did



not know the owner of the house, but he was a Sikh gentleman. He never met the owner of the house. He could not specifically say who told him that the owner of the house was Sikh gentleman. It was a busy locality. He further admitted that neither they had taken any record regarding the tenancy of Mohinder Singh and Kamaljit Kaur, nor they had recorded any statement in that regard. The lock of the store was broken, but he did not remember whether the lock was taken into possession by them. The prosecution further examined Kuldeep Singh as PW-10, who was working as Superintendent in the Punjab School Education Board. As per him, Tara Singh Hundal was the Secretary of the Board and he used to do all the verifications of the authenticity of the certificates. He remained posted with Tara Singh Hundal for about 07 years, but he did not have any direct link with him. He was somewhat conversant with the signatures of Tara Singh Hundal. He had seen the signatures of Tara Singh Hundal on letter pad Ex.PW-10/A. He further admitted that as per the Gazette notification, Roll No.72582 was not issued to any candidate. Certificates Ex. PW8/A and Mark A had not been issued by Punjab School Education Board. In cross examination, he stated that the certificates Ex. PW8/A and Mark A had not been issued by Punjab School Education Board, merely because Tara Singh Hundal had so reported and he had not verified this fact personally from the office record.

9. After the closure of the prosecution evidence, the statements of the accused were recorded under Section 313 Cr. P.C. In their statements under Section 313 Cr. P.C, the respondents had completely denied the evidence led against them and pleaded false implication. The defence examined Devinder



Mohan Sharma as DW-1 and he stated that he had never made any statement to the police. ASI Ram Parkash had never asked him to join the investigation and he never went with him to Mohinder Singh's house. He never met Mohinder Singh and his wife in Jalandhar and had never seen that both of them were ever living in Jalandhar.

10. In the present case, learned counsel for the appellant submitted that the Appellate Court had wrongly reversed the judgment passed by the Trial Court by completely overlooking the evidence on record. In the present case, when PW-2, HC Harnam Singh and other police officials reached the Estate Office, it was found that Karnail Singh and Jagir Singh were getting a certificate forged by use of typewriter from Naveen Bhasen, typist and they were apprehended at the spot. Even the typewriter was taken into possession by the police and from the statement of PW-8, K.N Parshad, Junior Scientific Officer (Document), CFSL, Chandigarh, it was found that the same typewriter had been used in committing the forgery, which was recovered by the police during the course of raid. The scientific evidence was conclusive to prove the involvement of the respondents and the respondents are liable to be convicted. Apart from that, there was recovery of fake certificates from the house of Kamaljit Kaur and Mohinder Singh and PW-10, Kuldeep Singh had proved that the certificates had not been issued by the Punjab School Education Board. Still further, the Lower Appellate Court had wrongly held that the ingredients of the offence under Section 120-B of IPC in the present case were completely missing in the present case. Thus, the impugned judgment was legally unsustainable.



11. On the other hand, learned counsel appearing on behalf of respondent(s) vehemently argued that the lower Appellate Court had recorded detailed reasons, while reversing the judgment of conviction and the impugned judgment was well reasoned and is liable to be upheld by this Court.

12. We have heard learned counsel for the appellant as well as learned counsel representing the respondent(s) in the different appeals and we have also carefully scrutinised the evidence, which has been placed on record by the prosecution.

13. In the present case, the main controversy revolves around the recovery of Typewriter No.241016 vide the recovery memo Ex.PA from Naveen Bhasin, accused, in the presence of Raghbir Singh and Yad Ram. In the present case, Yad Ram was given up by the prosecution, whereas the prosecution had examined Raghbir Singh as PW-1. In his testimony as PW-1, Raghbir Singh stated that the typewriter was taken into possession in his presence from Naveen Bhasin, accused vide recovery memo Ex.PA and his signatures were taken on the memo. However, in cross-examination, he admitted that neither his signatures nor signatures of Yad Ram were there on the recovery memo Ex.PA. He further submitted that many persons were present there, but no other person was made a witness in the recovery memo. Apart from that, the recovery memo Ex. PA was prepared by Ram Parkash Investigating Officer, who was also not examined in the present case. The Trial Court correctly held that in view of the such kind of evidence, the recovery of typewriter from Naveen Bhasin, respondent/accused was highly doubtful and the case of the prosecution is liable to be discarded only on this ground alone.



Apart from that, PW-2, HC Harnam Singh was a star witness of the prosecution, who stated that when he visited there, Karnail Singh, accused and Jagir Singh were present there and the forgery by way of typing was being committed by Naveen Bhasin, typist, accused. After the blank column were filled by Naveen Bhasin, Karnail Singh, accused asked Jagir Singh, accused to give Rs.5 to the typist as typing charges and the said amount was given by Jagir Singh to Naveen Bhasin. In his cross-examination, HC Harnam Singh stated that he had got recorded in his statement that Mohinder Singh and Jagir Singh were getting typed some certificate from Naveen Bhasin. Apart from that, he also stated that signatures of Karnail Singh and Jagir Singh were obtained on the seizure memo Ex. PW-2/A, which was prepared by the Duty Officer in the police station. However, in the same breath, he admitted that the memo Ex. PW-2/A was not bearing the signatures of Karnail Singh, Jagir Singh and Naveen, typist. Thus, the initial recoveries, which were the foundation of the prosecution case, were highly doubtful and the testimonies of PW-1, Raghbir Singh and PW-2, HC Harnam Singh had completely demolished the case of the prosecution.

14. Apart from that, the Trial Court had correctly observed that in the present case, the ingredients of the offence under Section 120-B of IPC are completely missing in the instant case. As per the case set up by the prosecution, PW-2 HC Harnam Singh stated that Karnail Singh, accused asked Jagir Singh to give a sum of Rs.5/- to Naveen Bhasin, typist as typing charges and the charges were given by Jagir Singh to Naveen Bhasin. Consequently, it has been rightly observed that there was no conspiracy between Naveen Bhasin,



typist and Jagir Singh and Karnail Singh.

15. Still further, in the present case, it has been stated the certificate Ex. PW8/A and Mark A were forged and fabricated and were not genuine documents and were not issued by the competent authority. To prove the charge, prosecution examined PW-10, Kuldip Singh, who stated that as per the Gazette Notification, the certificates were not issued to any candidate. He further stated that the certificates Ex.PW8/A and Mark A had not been issued by Punjab School Education Board. However, the said certificates were allegedly signed by Tara Singh Hundal, Secretary of the Board, who was never examined by the prosecution. In fact, Tara Singh Hundal, Secretary of the Board was the best witness to deny his signatures on the alleged forged documents. Apart from that, PW-10, Kuldip Singh stated that he was somewhat conversant with signatures of Tara Singh Hundal and he did not state formally that it was not signed by Tara Singh Hundal. Rather he admitted that he had no direct link with Tara Singh Hundal, Secretary. Even he declared the certificates Ex.PW8/A and Mark A forged only because Tara Singh Hundal had so reported and he had not verified this fact personally from the office record. Even he did not produce the office record before the Trial Court in this regard. Apart from that, it has been stated that certain forged and fabricated certificates were recovered from the house, which was taken on rent by Mohinder Singh and Kamaljit Kaur. However, the prosecution utterly failed to lead any evidence to show that the said documents were recovered from their house. The prosecution had set up a case that the alleged recovery was effected in the presence of two independent witnesses i.e. Janak Raj,PW-4 and Devender Mohan Sharma,



DW-1. Janak Raj, PW-4 had turned hostile and did not support the case of the prosecution. Further, DW-1, Devender Mohan Sharma stated that he had never made any statement to the police nor he was joined in the investigation. He had not met Mohinder Singh and his wife Kamaljit Kaur at Jalandhar and had not seen them living in the said house. Even, the prosecution miserably failed to show that the house was ever occupied or taken on rent by Kamaljit Kaur and Mohinder Singh, both accused. Even PW-7, Pargat Singh stated that his house was given to Mohinder Singh by his neighbour. Apart from that, no evidence with regard to tenancy of both the accused was produced before the Court. Even, the lock which was allegedly broken was never taken into possession by the police team, which allegedly recovered the certificates at Jalandhar. Even otherwise, we have carefully perused the findings recorded by the Trial Court and finds no reasons to deviate from the same. It seems that the Appellate Court had correctly appreciated the evidence in the light of the settled principles of law and we did not agree with the submissions made by learned State counsel in the present case.

16. It has been held by the Hon'ble Supreme Court in the matter of **“Bhaskarrao and others Vs. State of Maharashtra”, 2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

*“14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in **Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal)***



**35 : 1987 CriLJ 974 -**

*"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappraisal, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."*

**15. In *Ramesh Babulal Doshi v. State of Gujarat*, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867, this Court observed:**



*"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."*

17. Still further in **Criminal Appeal No(s.) 410-411/2015 [Ravi Sharma Vs State (Government of N.C.T. of Delhi) and another]**, decided on **11.07.2022**, Hon'ble the Supreme Court has held as under:-

*"Before venturing into the merits of the case, we would like to reiterate the scope of Section 378 of the Code of Criminal Procedure (for short 'Cr.P.C.') while deciding an appeal by the High Court, as the position of law is rather settled. We would like to quote the relevant portion of a recent judgment of this Court in **Jafarudheen and Others v. State of Kerala (2022 SCC Online SC 495)** as follows:*

*"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused.*

*Thus, the Appellate Court has to be relatively slow in reversing the*



*order of the Trial Court rendering acquittal.*  
*Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”*

18.           Consequently, the impugned judgment dated 28.09.2000, passed by the Court of Additional Sessions Judge, Chandigarh is ordered to be upheld.
19.           Thus, findings no merits, the present appeal(s) are ordered to be dismissed.
20.           Pending application(s), if any,are also disposed off.

**(GURVINDER SINGH GILL)**  
**JUDGE**

**(N.S.SHEKHAWAT)**  
**JUDGE**

**17.05.2024**  
*hitesh*

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