

2016.PHHC.131682



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

CRM M-13767 of 2018 (O&M)

Reserved on:-22.04.2026

Date of Decision:01.07.2026

Uploaded on:-03.07.2026

Suresh Kumar and others

...Petitioner (s)

Vs.

Kawaljeet Singh and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present: Mr. Sartej Singh Narula, Sr. Advocate with
Mr. Sidharth Grover, Advocate
for petitioners.

Mr. Anil Kumar Malik, Advocate
for respondent No.1/complainant.

Mr. Rajinder Kumar Banku, Senior DAG, Haryana.

N.S.SHEKHAWAT, J.

1. The petitioners, who are police officials, have filed the present petition under Section 482 Cr.P.C. with a prayer to quash Criminal Complaint No. 24 dated 26.02.2013, titled "Kawaljeet Vs. SI Prem Singh etc." (Annexure P-1), pending in the Court of Judicial Magistrate 1st Class, Panipat, and the summoning order dated 12.03.2018 (Annexure P-2), passed by the Court of JMJC, Panipat, whereby, the petitioners were ordered to face trial under Sections 304 and 34 IPC, and all consequent proceedings arising therefrom.

2. Learned senior counsel appearing on behalf of the petitioners has vehemently argued that initially one FIR No. 1146 dated 21.09.2011 under Sections 304 and 34 IPC was ordered to be registered

at Police Station, City Panipat, against the petitioners No. 2 and 3, and two more police officials at the instance of Kawaljeet Singh, respondent No. 1/brother of the deceased. Learned senior counsel further contended that, in fact, while lodging the FIR No. 1146 of 2011, the complainant had concealed the material facts. In fact, at about 04.15 p.m. on 14.09.2011, a telephonic call was received at Police Station, Police Control Room, Panipat, from Laltesh, wife of the deceased, who alleged that her husband, under the influence of liquor and was beating her and her daughter. Upon this, ASI Sajjan Singh and Constable Sandeep from Police Post Quilla, Panipat, went at the spot and they tried to apprehend Amarjeet Singh, deceased. When they could not control Amarjeet Singh, two more police officials reached at the spot and Amarjeet Singh was brought at the police post. On an application presented by Laltesh, SI Prem Singh, had recorded a DDR No. 15 dated 14.09.2011 at 04:50 p.m. and initiated proceedings under Sections 107 and 151 Cr.P.C. against Amarjeet Singh. It was also recorded that when ASI Sajjan Singh and Constable Sandeep tried to control Amarjeet Singh, he had bitten the left thumb of Constable Sandeep and also inflicted injuries to them. It was also recorded that at that time the injuries on eyes and nose were sustained by Amarjeet Singh while he was quarrelling in his house. Still further, SI Prem Singh sent Amarjeet Singh to Civil Hospital, Panipat, for the purpose of medical examination. However, near the main gate of Civil Hospital, Panipat, Amarjeet Singh succumbed to the injuries and breathed his last. The postmortem on the dead body of Amarjeet Singh was got conducted from PGIMS, Rohtak, and as per the postmortem

report dated 15.09.2011, the cause of death in the case was the injuries described and their complications. All the injuries were ante-mortem in nature and consequent to blunt force mark. On receiving the postmortem report, the FIR No. 1146 of 2011 was ordered to be registered against petitioners No. 2 and 3, and two unknown police officials under Sections 304 and 34 IPC. It was also found that petitioners No. 2 and 3 had also suffered injuries in the incident, which was apparent from their MLRs (Annexures P-6 and P-7) respectively.

3. Learned senior counsel further submitted that the investigation in the FIR was handed over to DSP Samalkha and he recorded the statements of Kuldeep Rana, Virender, Bhopal Singh and Mrs. Kamla Devi under Section 161 Cr.P.C., who stated that the injuries on the person of Amarjeet Singh, since deceased, were caused by his own family members and, thereafter, Laltesh had called the police at the spot. Thereafter, the investigation was transferred to the DSP, Headquarters, Panipat, and he also recorded the statements of several witnesses, who also stated that police had not caused any injury on the person of Amarjeet Singh, since deceased. Thereafter, the DGP had handed over the further investigation to State Crime Branch, which had also drawn the same conclusions. He further contended that, as per the opinion (Exhibit P-11) of Dr. Pawan Mittal, the injuries sustained by Amarjeet Singh, since deceased, 24/48 hours before the death, and it stood proved that the police had not caused any injuries to the deceased, as they had reached at the place of occurrence only 45 hours before his death. Apart from that, even the petitioners were also subjected to

polygraph test to ascertain the veracity of the allegations levelled against them. However, from the polygraph test report (Exhibit P-12), it is apparent that nothing incriminating was found against the petitioners. Ultimately, after detailed and thorough investigation, police prepared an untrace report (Exhibit P-13), and presented the same before the Court.

4. Learned senior counsel further submitted that the respondent No.2/complainant, however, disagreed with the untrace report and presented a protest petition/impugned complaint (Annexure P-1) before the Court of Chief Judicial Magistrate, Panipat. During the course of preliminary evidence, the complainant examined 21 witnesses and also exhibited several documents before the trial Court. However, vide the impugned summoning order (Annexure P-2), the trial Court did not accept the untrace report and rather ordered the summoning of the petitioners under Sections 304 and 34 IPC. Learned senior counsel further submitted that while summoning the petitioners, the Magistrate committed an error in placing reliance on a report prepared by the CJM Panipat under Section 176 Cr.P.C. In fact, the CJM had over stepped her jurisdiction while preparing her report under Section 176 Cr.P.C. In fact, the scope of inquest was limited and was confined to ascertainment of the apparent cause of death. Even, in the report prepared by the CJM under Section 176 Cr.P.C. (Annexure P-12), instead of holding an inquiry, the Magistrate held the petitioners to be responsible for causing the death of Amarjeet Singh and the report was wrongly prepared. Learned Senior Counsel further argued that the Magistrate had completely ignored the mandate of Section 210 Cr.P.C. Once an untrace

report was presented before the Magistrate, the Magistrate could have proceeded to accept or reject the untrace report and the proceedings in the complaint case could not have been taken up. Further, even the doctor had categorically opined that the injuries mentioned in the postmortem report were caused 24/48 hours prior to the occurrence and apparently no injury was inflicted by the police officials on the person of Amarjeet Singh, since deceased. Apart from that, the trial Court also ignored the material collected by the investigating agency in the shape of the statements of various witnesses of the locality, which were recorded by the police under Section 161 Cr.P.C. which clearly exonerated the petitioner. Thus, the complaint (Exhibit P-1) and the impugned order (Exhibit P-2) passed by the Magistrate and all subsequent proceedings are liable to be quashed by this Court.

5. On the other hand, learned counsel appearing on behalf of respondent No.1 has vehemently opposed the submissions made by learned counsel for the petitioners and submitted that during the course of investigation, Smt. Laltesh wife of Amarjeet Singh, since deceased, as well as the brother-in-law and father-in-law of the deceased, had accepted huge amount from the police officers and did not support the case of the prosecution. Learned counsel further submitted that since all the accused in the present case were serving police officers, the IO of the case had colluded with them and prepared an untrace report just to help their clearance. In fact, the post-mortem on the dead body of Amarjeet Singh was conducted on the next day itself, i.e., on 15.09.2011 by a board of doctors from PGIMS, Rohtak, and in the post-mortem report,

20 serious injuries were noticed by the doctors on the dead body of Amarjeet Singh, which are as follows:-

“1)Left upper eyelid was diffusely contused with obvious swelling. On dissection underlying tissues were ecchymosed.

2)Reddish blue contusion of size 5x3 cm present over the left cheek including left lower eyelid situated 2 cm from middle. On dissection underlying tissues were ecchymosed.

3)Whole of the right pinna along with right mastoid region was diffusely contused. The contusion measured 5x3 cm on mastoid region, blush in appearance. On dissection underlying tissues were ecchymosed.

4) Swelling of size 13x10 cm present on the left side of face, extending from left temple region including left pinna and left mastoid region and below pinna. On dissection, contusion was present underlying the swelling.

5) Blush contusion of the size 2x1 cm present over the lateral aspect of the left upper lip. On dissection underlying tissues were ecchymosed.

6) Scratch abrasion of size 0.2x0.1 cm present on the left side of neck situated 2 cm from midline and 2 cm below chin. On dissection underlying tissues were ecchymosed.

7)Scratch abrasion, reddish in colour of size 0.3x0.1 cm present over right side of front of neck situated 6 cm from midline and 9 cm above sternal notch.

8)Confusion of size 6x4 cm reddish blue in colour present over on left anterior axillary fold. 18 cm from midline. On dissection underlying tissues were ecchymosed.

9) Swelling of size 5x4 cm present on middle third of lateral aspect of left arm situated 17 cm above left elbow. On this dissection underlying contasion were present.

10)Scratch abrasion of size 3.5x9.2 cm present on lateral aspect of left arm situated 10 cm above left elbow.

11) Reddish abrasion of size 0.5x0.5 cm present on right side of chest. 3 cm below right nipple and 15 cm from middle.

12) Reddish contusion of size 1x0.5 cm is present on anterior aspect of right shoulder. On dissection underlying tissues were ecchymosed.

13) Swelling of size 6x5 cm present on lateral aspect of middle third of right arm situated 12 cm above right elbow. On dissection underlying tissues found to be contused.

14) Multiple reddish abrasions of size 0.2x0.2 cm present over the knuckles of right hand.

15) Reddish abrasion of size 1x1 cm present on lateral aspect of left thigh situated 13 cm below and lateral to left iliac crest.

16) Reddish abrasion of size 0.5x0.5 cm present on the medial aspect of right foot situated 5 cm above right heel.

17) Reddish abrasion of size 2x1 cm present on right malleolus. 10 cm above right heel.

18) An abroad contusion with bright red scab present over anterolateral aspect of left shin situated 23 cm above left heel, measuring 1x0.5 cm in size.

19) An abraded contusion of size 3x1 cm, present on the left shin, vertically, situated 24 cm above left heel.

20) Swelling of size 26x10 cm present on the back of the abdomen. On dissection underlying tissues & muscles were contused”.

6. Learned counsel further submitted that as per the cause of death mentioned in the post-mortem report, the death of Amarjeet Singh had occurred due to the injuries described in the post-mortem report and their complications. The injuries were held to be ante-mortem in nature and consequent to blunt force impact. The matter was further examined by the Chief Judicial Magistrate, Panipat, who prepared a report under 176 Cr.P.C., wherein, the CJM took into consideration the entire material

available at that time and it was concluded that the present petitioners had brought the deceased to the police post and he was given severe beatings by them in the presence of in-charge of Police Post, Quilla. The inquest report (Exhibit CW20/M) clearly mentions that the deceased was given severe beatings by the police officials in the presence of in-charge of the police post and when the condition of the deceased became serious, he was taken to Civil Hospital, Panipat, where he was declared brought dead by the concerned doctor. Thus, an irresistible conclusion was drawn by the CJM that the deceased had met with an unnatural death in police custody due to the injuries inflicted upon him by the police officials. Learned counsel further submitted that even the case is at the stage of summoning and only a *prima facie* opinion has to be formed by the Magistrate as to whether sufficient grounds exist for summoning of the accused or not and a detailed inquiry may not be undertaken at this stage. Apart from that, even the question of requirement of sanction for the prosecution of the petitioners would be seen only at the time of conclusion of the trial and the petition deserves to be dismissed by this Court.

7. I have heard learned counsel for the parties and perused the report with their able assistance.

8. In the present case, initially one FIR No. 1146 dated 21.09.2011 under Sections 304 and 34 IPC was ordered to be registered at Police Station City Panipat against petitioners No. 2 and 3 as well as two other police officials. Even, it is an admitted case of the petitioners that a telephonic call was received by the Police Control Room with

regard to beatings of Laltesh and her two daughters by Amarjeet Singh (since deceased) and on receipt of the call, petitioners No. 2 and 3 had reached at the spot. Even from the MLRs (Annexures P-6 and P-7) of petitioners No. 2 to 3, it is apparent that they had also suffered injuries while they were trying to apprehend the deceased. Thus, the presence of the petitioners No. 2 and 3 is admitted at the place of the incident. It is also an admitted fact that when petitioners No. 2 and 3 were not successful in apprehending Amarjeet Singh, who was drunkard, two more police officials i.e. petitioners No. 1 and 4 were also called at the spot and, thereafter, he was brought to the Police Post Quilla, Panipat. Now, on the one hand the petitioners have alleged that Amarjeet Singh, since deceased, had suffered injuries 24/48 hours prior to his arrest by the police, whereas on the other hand respondent No.1/complainant has alleged that all the four petitioners had brutally beaten up Amarjeet Singh, since deceased, in police custody in the presence of witnesses. Apart from that, the post-mortem report (Annexure P-5) of the deceased clearly shows that Amarjeet Singh, since deceased, had suffered following 20 injuries on his person:-

“1)Left upper eyelid was diffusely contused with obvious swelling. On dissection underlying tissues were ecchymosed.

2)Reddish blue contusion of size 5x3 cm present over the left cheek including left lower eyelid situated 2 cm from middle. On dissection underlying tissues were ecchymosed.

3)Whole of the right pinna along with right mastoid region was diffusely contused. The contusion measured 5x3 cm on mastoid region, blush in appearance. On dissection underlying tissues were ecchymosed.

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7) Scratch abrasion, reddish in colour of size 0.3x0.1 cm present over right side of front of neck situated 6 cm from midline and 9 cm above sternal notch.

8) Confusion of size 6x4 cm reddish blue in colour present over on left anterior axillary fold. 18 cm from midline. On dissection underlying tissues were ecchymosed.

9) Swelling of size 5x4 cm present on middle third of lateral aspect of left arm situated 17 cm above left elbow. On this dissection underlying contusion were present.

10) Scratch abrasion of size 3.5x9.2 cm present on lateral aspect of left arm situated 10 cm above left elbow.

11) Reddish abrasion of size 0.5x0.5 cm present on right side of chest. 3 cm below right nipple and 15 cm from middle.

12) Reddish contusion of size 1x0.5 cm is present on anterior aspect of right shoulder. On dissection underlying tissues were ecchymosed.

13) Swelling of size 6x5 cm present on lateral aspect of middle third of right arm situated 12 cm above right elbow. On dissection underlying tissues found to be contused.

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15) Reddish abrasion of size 1x1 cm present on lateral aspect of left thigh situated 13 cm below and lateral to left iliac crest.

16) Reddish abrasion of size 0.5x0.5 cm present on the medial aspect of right foot situated 5 cm above right heel.

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18) An abroad contusion with bright red scab present over anterolateral aspect of left shin situated 23 cm above left heel, measuring 1x0.5 cm in size.

19) An abraded contusion of size 3x1 cm, present on the left shin, vertically, situated 24 cm above left heel.

20) Swelling of size 26x10 cm present on the back of the abdomen. On dissection underlying tissues & muscles were contused”.

He was brought to the hospital by the police officials only.

Thus, whether the injuries were caused by police officials or Amarjeet had suffered injuries prior to his arrest is again a disputed question of fact. Even, though the petitioners have tried to set up a case that as per the medical opinion Amarjeet Singh, since deceased, had suffered injuries 24/48 hours prior to his arrest, but again the veracity and the admissibility of such a report could only be adjudicated by the trial Court during the course of trial in the present case. Both the sides had raised their respective factual submissions which can never be adjudicated by this Court while exercising its extraordinary jurisdiction under Section 482 Cr.P.C. Apart from that, the documents and statements which are sought to be relied upon by the petitioners can be proved only during the course of trial and such annexures can never be treated like exhibits for trial. Even, the Hon'ble Supreme Court has held in a plethora of judgments that proceedings under Section 482 Cr.P.C. before this Court can never be converted into a mini-trial and disputed

facts cannot be adjudicated by this Court. While making these observations, this Court also places reliance on the law laid down by the Hon'ble Supreme Court in the matter of ***C.S.Prasad Vs. C. Satyakumar and others, 2026(1) RCR (Criminal) 428***, wherein, the Hon'ble Apex Court held as follows:-

*“22.The jurisdiction under Section 482 of the CrPC is extraordinary in nature and is to be exercised with great caution. This Court in catena of judgments has emphasised that the High Court must avoid usurping the function of a trial court or conducting a mini-trial when disputed factual questions attend the maintainability of a complaint. The only requirement is to examine whether the uncontroverted allegations, as contained in the FIR, taken at their face value, disclose the commission of any cognizable offence. In **State of Haryana and Others v. Bhajan Lal and Others 1992 Supp (1) SCC 335**, a Division Bench of this Court had discussed about the scope of Section 482 of the CrPC as follows:*

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously

instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

(emphasis supplied)

23. Furthermore, in ***Neeharika Infrastructure Private Limited v. State of Maharashtra and Others*** (2021) 19 SCC 401, a three-Judge Bench of this Court had held that the power to quash criminal proceedings must be exercised sparingly, and only where the complaint, even if accepted in full, discloses no offence or continuation would amount to abuse of process. This Court had issued the following directions to the High Courts to be kept in mind while exercising the power under Section 482 of the CrPC:"

Conclusions

33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1.....

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information

report that the Court will not permit an investigation to go on.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).

33.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8 to 33.11.....

33.12. The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13 and 33.14.....

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable

offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR....."

(emphasis supplied)"

9. Apart from that, I find no force in the submissions made by learned counsel for the petitioners that in view of the mandate of Section 210 Cr.P.C. the Magistrate should have stayed the proceedings of the trial and should have called for a report of investigation from the police. In fact, initially one FIR No. 1146 of 2011 was ordered to be registered against the petitioners. However, the police conducted a detailed investigation and an untrace report was presented before the Magistrate. Ultimately, the complainant disagreed with the untrace report and preferred to file the impugned complaint (Annexure P-1) before the Court of Chief Judicial Magistrate, Panipat. Once the police had already submitted the untrace report, there was no need of calling any further report by the Magistrate, and the Magistrate was competent to take cognizance of the matter on the strength of the preliminary evidence led by the complainant in the present case. Apart from that, even this Court finds no force in the submissions made by learned counsel for the petitioners that the sanction under Section 197 Cr.P.C. was required before taking cognizance of the matter. In fact, in the present case, there are serious allegations of causing custodial death of Amarjeet Singh by the present petitioners, and the benefit of the provisions of Section 197 Cr.P.C. cannot be extended to the petitioners, who had tried to take undue advantage of their position and had misused the authority vested

in them for committing acts, which were otherwise not permitted under law. Both the sides have raised their factual submissions and the petitioners still would have to lead evidence before the trial Court to show that they had not committed the crime and in such an eventuality, they would be also be permitted to raise their pleas that they were entitled to the protection of law under Section 197 Cr.P.C.

10. Apart from that, in the present case, serious and specific allegations have been levelled against all the petitioners and it has been alleged that they had caused serious injuries on the person of Amarjeet Singh, since deceased. Even at this stage, the complainant has been able to produce 21 witnesses in support of his case and the oral testimonies of various prosecution witnesses have been duly supported by (Exhibit C-16), i.e.. the postmortem report of Amarjeet Singh, since deceased. Apart from that, in the present case, the inquest report (Exhibit PW20/M) was also prepared by the Chief Judicial Magistrate, Panipat, who had opined that all the present petitioners have brought Amarjeet Singh in Police Post Quilla while he could not be controlled by them at his house and he was given severe beating by police officials in the presence of the in-charge of police post. However, when the condition of the injured became serious, he was taken to Civil Hospital, Panipat, where he was declared brought dead by the concerned doctor. In the concluding part of the inquest report, the Chief Judicial Magistrate, Panipat, also stated that the deceased had died an unnatural death in police custody due to injuries inflicted upon him by the police officials. As per the case set up by the police officials, no injury was caused by them to the deceased but

they had utterly failed to explain the injuries sustained by the deceased to falsify the postmortem report.

11. In view of the above said discussion, this Court has no hesitation to hold that a *prima facie* case for summoning the petitioners under Sections 304 and 34 IPC was clearly made out against the petitioners and the impugned order dated 12.03.2018 (Annexure P-1) is ordered to be upheld.

12. As a consequence of the above said discussion, the present petition must fail and is accordingly ordered to be dismissed.

13. It is clarified that the above observations have been made only for the limited purpose of disposal of the present petition and the trial Court shall finally adjudicate the trial on the strength of the evidence led by both the parties during the course of trial.

14. All pending applications, if any, are disposed off, accordingly.

01.07.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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