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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 749/2026 & CM APPL. 22637/2026**
SANDEEP KUMARPetitioner

Through: Mr. Anand Kumar and Mr. Chetan
Singh, Advs.

versus

HIRA DEVI AND ORS.Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
29.04.2026

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1. Counsel for petitioner states that respondents have been served through digital mode.
2. However, none appears on behalf of respondents.
3. The issue in the present petition is of a limited scope.
4. Petitioners are the alleged owners of the offending vehicle, *i.e.* a motorcycle bearing registration no. DL-7S-BD-2488, which was allegedly driven by one *Sandeep Kumar*. The said vehicle was involved in an accident on 22nd January 2017 at about 7:30 PM, resulting in the demise of late *Sh. Bahadur Singh Rawat*, the husband of respondent no. 1/claimant. Subsequently, FIR No. 54/2017 was registered.
5. MACT Petition no.244/2017 was instituted before the MACT, and the driver was proceeded *ex-parte vide* order dated 02nd May 2018. The matter was thereafter fixed for evidence.
6. Petitioner filed an application under Order XVIII Rule 17 Code of Civil



Procedure, 1908 (*‘CPC’*) for recalling **PW3**, the Investigating Officer [*‘IO’*], who was a material witness in relation to the chargesheet. Petitioner contends that he had not been implicated in the chargesheet and, therefore, was entitled to cross-examine **PW3**.

7. A defense was taken that respondent no.2 (*petitioner herein*) had already sold the vehicle prior to the date of accident, which was mentioned in the written statement, and petitioner seeks to prove the same.

8. As per *Mr. Anand Kumar*, counsel for petitioner, aside from documents that had been filed before MACT to prove transfer of ownership of the vehicle, petitioner moved an application under *Order XVI Rules 6 and 7A* read with Section 151 of the CPC to summon the IO as a witness and to produce documents forming part of the chargesheet.

9. Assistant Sub- Inspector [*ASI*] *Ved Prakash* was examined as **PW-3**, who stated that during investigation, he was transferred and could not complete investigation or file the chargesheet.

10. As per the information available to petitioner, petitioner was not charge-sheeted in the present matter and, therefore, wishes to examine documents which relates to investigation. For this purpose, petitioner moved an application; however, the same was dismissed on 28th January 2025 on the ground that it did not mention the name of IO and, therefore, the application suffered from deficiency of material particulars. For ease of reference, relevant paragraph is extracted as under:

“An application has been moved on behalf of the R-2 for summoning the IO of FIR No. 54/2017 u/s 279/304A IPC as his witness. It is submitted that during his cross examination, PW3 has submitted that he did not conduct the entire investigation or file the chargesheet. No name of



*the IO sought to be summoned is mentioned in the application. **The application is, therefore, dismissed as being deficient in material particulars.***

11. Thereafter, there was some delay on part of petitioner in pursuing the matter and subsequently, an application moved by him which was dismissed *vide* impugned order, stating that there was no application to reopen respondents' evidence. For ease of reference, said order is extracted under:

“Ld. Counsel for respondent no. 2 submits that an application under Order XVI Rules 1 (2) & 6 r/W section 151 CPC for summoning the SHO/IO of the concerned police station alongwith complete chargesheet is pending. Ld. Counsel for respondent no. 2 submits that IO is required to be examined on behalf of the respondent no. 2, however the same is objected by counsel for petitioners. Considering the facts and submissions, the case is at the stage of final arguments and evidence has already been closed. There is no application filed by respondent to re-open the case for respondent's evidence. The present application is meritless, hence, dismissed and disposed of accordingly.”

12. It is informed by counsel for petitioner that proceedings are still going on before the Trial Court.

13. Accordingly, the matter is stated to be listed on 03rd July 2026 before the MACT.

14. Considering that there was a subsequent IO, who had investigated the matter at *PS Vasant Vihar*, the copy of this order be sent to *PS Vasant Vihar* in order that the IO in FIR No.54/2017 is produced before the MACT on 03rd July 2026 for responding to the queries of the Tribunal.

15. The IO shall remain present on 03rd July 2026 along with the chargesheet and attendant documents filed in the matter.



16. The MACT will examine the chargesheet in order to consider the plea of petitioner regarding their involvement in the alleged accident.
17. As part of the inquiry, the MACT may put relevant queries to the IO in the context of the plea being asserted by petitioner. Since petitioner's involvement is dependent on the chargesheet, wherein it is asserted that he has not been implicated, it is essential for the MACT to examine this issue as part of the inquiry.
18. The MACT is directed to permit petitioner to cross-examine the IO, particularly in relation to the chargesheet, which has not yet been produced before the MACT.
19. To ensure expeditious disposal, the MACT may endeavour to conclude the hearing within three months thereafter.
20. Accordingly, the petition is disposed of with the aforesaid directions.
21. Pending applications, if any, are rendered infructuous.
22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

APRIL 29, 2026/MK/zb