

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

112

CRR-2590-2025(O&M)
Date of decision: 14.11.2025

Balwinder Singh ...Petitioner

VERSUS

State of Punjab ...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Umesh Kumar Kanwar, Advocate, for the petitioner.

Ms. SaviNagpal, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The present revision petition has been preferred against the judgment dated 20.12.2018 passed in case No.CHI/130/2017 by the Chief Judicial Magistrate, Fazilka, whereby the petitioner had been convicted for commission of offence under Section 465, 468 and 471 of the Indian Penal Code, 1860 and sentenced vide order dated 20.12.2018 as under:-

Accused Balwinder Singh				
Sr. No.	Offence	Sentence	Fine	Imprisonment in default of fine
1	465 IPC	RI 2 years	500/-	RI 10 days
2	468 IPC	RI 2 years	1000/-	RI 15 days
3	471 IPC	RI 2 years	500/-	RI 10 days

2. Challenge further is to the judgment dated 16.09.2025 passed in Criminal Appeal No.28 of 2019 by the Additional Sessions Judge, Fazilka, whereby the appeal preferred by the petitioner against the said judgment of conviction and order of sentence had been dismissed.
3. Briefly summarised, the facts of the present case are that on 17.08.2016, SI Lekh Raj of the Recruitment/Bharti Cell, Fazilka, vide letter No. 209 dated 17.08.2016, informed Police Station City Fazilka that the

recruitment process for the post of Constable was underway at the Multipurpose Sports Stadium, Fazilka, from 27.07.2016, wherein physical tests were being conducted. On 17.08.2016, the petitioner, Balwinder Singh son of Tara Singh, appeared with an admit card bearing Roll No. 8219844 and Registration No. 204458079. Upon suspicion that he had earlier participated in the selection process, the records were verified, revealing that the petitioner had also appeared earlier under Roll No. 8110167 under the name of Baljinder Singh son of Tara Singh. He had participated in the trials on 27.07.2016 in Batch No. 8, wherein he failed to qualify the 1600-metre race and was declared unfit. It thus emerged that the petitioner had filled two separate online forms, one by filling details as Balwinder Singh and another in the name as Baljinder Singh, to secure two different roll numbers and had thus attempted to re-appear in the selection process despite failing in the earlier trial. On the basis of these allegations, an FIR under Sections 420, 465, 468 and 471 of the Indian Penal Code, 1860, was registered against the petitioner.

4. The matter was investigated, statements of witnesses were recorded, documents collected, whereafter final report was filed. Copies of the challan and documents were duly supplied to the petitioner.

5. To prove its case, the prosecution led as many as 06 witnesses. The details of the witnesses as well as the documents exhibited by them is tabulated as under:-

Sr. No.	Prosecution Witnesses	Documents Exhibited
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1.	PW-1 SI Lekh Raj	• Computer record of Baljinder Singh (Ex.P1) • Admit Card under the name of Balwinder Singh (Ex.P2) • Admit Card under the name of Baljinder Singh (Ex.P3) • Application Forms (Ex.P4 and P5 respectively) • Result Sheet (Ex. P6)
2.	PW-2 ASI Karnail Singh	• --
3.	PW-3 HC Harbans Singh	• Arrest Memo (Ex.P3/A) • Personal Search Memo (Ex.P3/B) • Intimation memo (Ex.P3/C)
4.	PW-4 Hari Singh	• Snap on both the applications (Ex.P4/A and P4/B)
5.	PW-5 ASI Lekh Raj	• ---
6.	PW-6 ASI Tilak Raj	• FIR (Ex.P6/A) • Site Plan (Ex.P6/B) • Notice issued to accused (Ex.P6/C)

6. After the conclusion of the prosecution evidence, the statement of the petitioner was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances and evidence on record were put to him. The petitioner denied the allegations in their entirety, described the prosecution case and evidence as false and fabricated, and asserted his innocence. He however did not examine any witness in defence.

7. After considering the arguments advanced, the testimonies of witnesses and the evidence placed on record, the Chief Judicial Magistrate, Fazilka convicted the petitioner of commission of the offences under Sections 465, 468 and 471 of the Indian Penal Code, 1860 while he was discharged for offence under Section 420 Indian Penal Code, 1860.

8. Aggrieved of the same, the petitioner preferred an appeal before



the Court of Sessions Judge, Fazilka bearing Criminal Appeal No.28 of 2019. The said appeal was dismissed by the Additional Sessions Judge, Fazilka vide judgment dated 16.09.2025. Hence, the instant revision petition.

9. Learned counsel appearing for the petitioner has vehemently contended that the petitioner never appeared in any subsequent physical test and had participated only in the test conducted on 27.07.2016. It is submitted that the signatures appearing in the attendance register dated 17.08.2016 pertain to one 'Baljinder Singh', and the same cannot, by any stretch, be attributed to the petitioner Balwinder Singh, who had appeared only on 27.07.2016. It is argued that the identity of the person, who presented himself under the roll number used on 17.08.2016, has neither been established nor linked to the petitioner, and therefore the benefit of the same ought to be given to the petitioner. The second argument advanced was that in the event the Court does not find merit in the contention raised by the petitioner, the sentence awarded to the petitioner be reduced considering that the petitioner is not involved in any other case and he has faced the criminal prosecution for a period of nearly 09 years. Besides, the petitioner was a young boy at the relevant point of time and while being keen on securing a public employment for himself may have, out of anxiety, taken the step. There was no intention of taking away anyone else's right in the said process.

10. State counsel, on the other hand, contends that both the Courts have examined the evidence brought on record and concurrently recorded a finding of conviction against the petitioner. In a revisional jurisdiction, neither new line of defence can be adopted nor any reappraisal of the



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evidence can be undertaken. There is no illegality or perversity that has been pointed out by the petitioner, hence, there is no occasion that would call for upsetting the findings recorded or the sentence awarded and affirmed by the Courts.

11. I have heard learned counsel appearing on behalf of the respective parties and have gone through the judgments passed by the Courts as well as the documents appended along with the present petition.

12. Insofar as the petitioner's submission that the prosecution failed to establish that he had in fact appeared under the second roll number is concerned, this contention is clearly an afterthought and stands contradicted by the record. A perusal of the judgment of the Trial Court reveals that the specific defence taken by the petitioner through his suggestions that he himself had filled both application forms and had duly signed them. It is also the case set up in defence that since in one of the application forms, the name was wrongly entered as Baljinder Singh instead of Balwinder Singh, hence, he filled the second form as well and that he had signed both the application forms as Balwinder Singh. Hence, it is not even the petitioner's case that he did not fill up the forms as Baljinder Singh. This factual position is further fortified by the record, which clearly shows that the photographs affixed on both forms are identical, and each form bears the petitioner's signature as Balwinder Singh and is accompanied by the same supporting certificates. Besides, on the earlier occasion, a candidate had appeared and participated in the selection process. There was no occasion for any other person to participate in the same as the other person would have the roll number and the specific details. No reference is made to the



evidence to show that such a suggestion was made to the witnesses or such defence was raised in 313 Cr.P.C. statement that the petitioner had not appeared in the first test. Besides, had the petitioner not appeared earlier, there would have been no cause of suspicion at all. The argument now sought to be advanced by the petitioner was never part of his defence during trial. Having not disputed his appearance in the selection process either in the suggestion put to the prosecution witnesses or in his statement under Section 313 Cr.P.C., such a line of defence cannot be permitted to be taken at the stage of the revisional jurisdiction. It is thus evident that the petitioner is attempting to introduce an entirely new defence at this belated stage, one that was never asserted before the Trial Court, and such a course is legally impermissible.

13. It would also be apposite to advert to the findings recorded by the learned Additional Sessions Judge, Fazilka while dismissing the appeal. The same are extracted as under:-

"16. The first arguments raised by learned counsel for the accused is that the documents ie. two online applications were not filled by the accused but were got filled by some other person from a cyber café who made typographical mistake in the first form due to which second form was filled. It is prayed that hence there is no forgery committed by the accused. It is further argued that the admit cards were issued by the department and roll number was also issued by the department which shows that the accused had no role in the same and hence, cannot be held responsible for creation of fake/forged documents. However, both the above said arguments of learned counsel for accused are bereft of any merit. The accused has miserably failed to prove that he had filled online forms with the



help of some person at a cyber cafe. The form Ex.P2 in the name of Balwinder Singh (also as Ex.P4/A and Ex.P3 in the name of Baljinder Singh (also as Ex.P4/B) contains the uploaded signatures of the accused. The accused has nowhere denied his signatures on these applications forms as is clear from the cross-examination of PWs and the stand taken by the accused in his statement under Section 313 Cr.P.C. Once the application forms both in the names of Balwinder Singh and Baljinder Singh contains signatures of accused which are not disputed, the only reasonable conclusion is that the forms were filled by the accused. Moreover, the accused filled the form for the post of Constable which means that he signed the same after reading the contents. Apart from the bald averments of the accused, there is nothing on file to show that these online application forms were not filled by the accused but by some other person. Once the forms contains the signatures of the accused, the prosecution is not required to prove I.P. address as to establish from where the said forms were uploaded.

17. *The next contention is that the admit card Ex.P1/5 having roll number 8219844 and admit card Ex.P3 having roll number 8110167 in the name of Balwinder Singh and Baljinder Singh respectively have been issued by the department but the same stands done on the basis of online applications submitted by the accused. Thus, it is the accused who submitted false applications with false particulars resulting in creation of two provisional admit cards in favour of the accused having his photographs but with different names ie. Balwinder Singh and Baljinder Singh. Therefore, merely because the department issued admit cards or allotted the roll numbers is not a ground for the accused to escape his liability and the role played by him to generate these documents.*

18. *Another point raised is that the presence of the accused is not proved on the date of the test and he only came*



to the ground and did not use the roll number/admit card. However, from the testimonies of PW1 and PWS, it is clear that the accused had also appeared on 27.07.2016 for the physical test and had failed in 1600 meter race. The fact that the accused came again on 17.08.2016 with another admit card and roll number in the test ground is in itself sufficient to prove that the accused had used the roll number/admit card and wanted to appear for the test again. PW1 has clearly stated that when during the process of physical test, due to suspicion, the record of accused was checked and it was found that he had already appeared for the exams of physical test on previous date with some other roll number/admit card. Hence, before the accused could cheat the recruitment cell, he was caught. As such, the Ld. Trial Court has rightly concluded that the offence of cheating was not completed. However, the culpability of the accused for offence u/s 465, 468 and 471 IPC is duly established on the ground in view of the discussion above and herein. The result sheet of physical test on 27.07.2016 is also proved on the file as Ex.P1/1 and the list Ex.P1/2 also shows that accused Baljinder Singh had appeared on 17.08.2016 also. The list Ex.P1/3 contains the test that Baljinder Singh having roll number 8219844 failed in the test. All these documents are sufficient to prove the presence of accused on 27.07.2016 and mere absence of attendance sheet is not fatal to the case of the prosecution. No doubt, in the case at hand, the FIR was registered on 20.08.2016, whereas the incident is of 17.08.2016 but the complaint by PW1 is dated 17.08.2016 and since the offence took place during the recruitment process, the necessary channels had to forward the complaint for processing. Hence, the delay of registration of FIR i.e. after 3 days is not fatal in this case. The contention that the fact that the accused was not arrested on the same day ie.on 17.08.2016 raised doubt against the veracity of the claim of the prosecution is not tenable



because at that time, the officials were on duty for recruitment process and were not to arrest the people.

19. *Coming to the judgment of the Trial Court, perusal of the same shows that the Court has passed detailed and reasoned order duly appreciating the entire evidence brought on the file and meeting the arguments/contentions raised by both sides. The learned Trial Court has rightly concluded that it was the accused who had filed online applications by two different names i.e. Baljinder Singh and Balwinder Singh and mere both the forms contains signatures of the name "Balwinder Singh" does not mean that there was any absence of intent or mensrea on the part of accused. Mensrea and intent is apparent from the fact that the accused has come to appear for the second time in the physical test despite having failed the first attempt and on the basis of two online application forms by the accused under different names, two admit card and roll numbers were generated. Hence, the accused is liable for the offence of forgery and preparation of forged document i.e. under Section 465 IPC. The accused also used the said forged documents when he reported in the ground for the physical test second day. Hence, he used the forged document as genuine. As such, offence under Section 471 IPC is also duly made out. No doubt the Ld. Trial Court has held that the offence of cheating was completed but the fact that the accused filled two online forms out of which one was with the wrong name to obtain the forged admit card for purpose of cheating, as such the offence u/s 468 IPC is made out.*

20. *Accordingly, the appellant/accused has failed to show any ground to interfere in the findings of the Ld. Trial Court. The impugned judgment upheld. The appeal of the appellant/accused is dismissed. The accused is taken into custody and his custody warrants be issued so as to make him undergo the sentence imposed by the Ld. Trial Court vide*



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judgment dated 20.12.2018. Record of Ld. Trial Court be returned along with copy of this judgment. File be consigned to the record room.”

14. It is evident from the perusal of the same that insofar as the substantive arguments that were raised by the petitioner before both the Courts is concerned (which such argument has not been raised here), the same were dealt with by reference to the specific evidence and the conclusions were drawn on the basis thereof. Said conclusions cannot be said to be perverse or not sustainable on an objective reading of the evidence adduced by the prosecution to establish its case. While sitting in a revisional jurisdiction, the High Court would not ordinarily substitute the findings recorded by the Courts below for an opinion of its own. If the findings recorded are sustainable and plausible, on a meaningful reading of the evidence, the same would ordinarily be upheld.

15. In view of the above, the challenge to the conviction of the petitioner is ***dismissed*** and the judgments recorded by both the Courts are hereby affirmed.

16. The same thus leads next to the question of quantum of sentence imposed upon the petitioner.

17. Counsel for the petitioner has argued for claiming the benefit of probation contending that the petitioner is not involved in any other criminal case. He has already undergone the agony of a protracted criminal trial for nearly nine years and is now married with two children dependent upon him. Sending him to custody would have a devastating impact on his family.

18. State Counsel has, however, opposed the prayer for grant of



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probation and contended that the conduct of the petitioner reflects an orchestrated attempt to subvert a fair and competitive recruitment process by filing two separate application forms under different names, thereby seeking to take an undue advantage and deprive other meritorious candidates of their rightful opportunity. Such conduct cannot be viewed as a mere error of judgment.

19. The State Counsel, however, does not dispute that the petitioner is not involved in any other criminal case and has undergone about 3 months of actual custody out of the total sentence of 2 years.

20. I have heard learned counsel for the respective parties on the quantum of sentence as well.

21. The Hon'ble Supreme Court has laid down certain principles to govern the Courts in the matter of sentencing. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in the matter of ***State of Punjab Vs. Prem Sagar & Ors reported as (2008) 7 SCC 550***. The relevant paragraphs are extracted as follows:-

- “5. Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.*
- 6. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine*



of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.

7. *A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.*
8. *Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.*
9. *What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The superior courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.*
10. *In Dhananjoy Chatterjee v. State of W.B. [(1994) 2 SCC 220: 1994 SCC (Cri) 358] this Court held : (SCC p. 239, para 15):*
 - “15. ... Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that



courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.”

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12. In a recent decision in *Shailesh Jasvantbhai v. State of Gujarat* [(2006) 2 SCC 359 : (2006) 1 SCC (Cri) 499] this Court opined : (SCC pp. 361-62, para 7)

“7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of ‘order’ should meet the challenges confronting the society. Friedman in his *Law in Changing Society* stated that: ‘State of criminal law continues to be—as it should be—a decisive reflection of social consciousness of society.’ Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.”



Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471 : 1991 SCC (Cri) 724] this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc.

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18. Don M. Gottfredson in his essay on “Sentencing Guidelines” in *Sentencing* by Hyman Gross and Andrew von Hirsch opines:

“It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable ‘disparity’ in sentencing. The word ‘disparity’ has become a prerogative and the concept of ‘sentencing disparity’ now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase ‘unwarranted disparity’ may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment, that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar



offenders committing similar offenses that it can be considered disparate.”

(emphasis supplied)

The learned author further opines:

“In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence.”

19. Kevin R. Reitz in *Encyclopædia of Crime and Justice*, 2nd Edn., “Sentencing Guidelines” states:

“All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted (conviction offenses), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained (non-conviction offenses).

Another difficult issue of fact finding at sentence for guideline designers has been the degree to which trial Judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example : Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline States, once again including all



jurisdictions with voluntary guidelines, allow trial court's latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some States, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. [However, such factors may indirectly affect the sentence, since Judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase, 1997).]"

20. *Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:*

1. *What interests are violated or threatened by the standard case of the crime—physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.*
2. *Effect of violating those interests on the living standards of a typical victim—minimum wellbeing, adequate wellbeing, significant enhancement.*
3. *Culpability of the offender.*
4. *Remoteness of the actual harm as seen by a reasonable man.*

(See Andrew Ashworth : Sentencing and Criminal Justice, 2005, 4th Edn.)"

22. The purpose of sentencing being both deterrent as well as reformatory, hence, while sentencing of an accused factors, such as psychological and sociological circumstances of an accused; the gravity, nature and manner of committing the offence; the consequences, the social reaction of the offence; the antecedents and tendencies of an accused should be taken into consideration.



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23. I find some force in the submissions made by counsel for the petitioner for considering his case sympathetically on the quantum of punishment in view of the facts of the case and position in law as above. The relevant factors may be culled out as under:-

(i) The petitioner was nearly 27 years of age as on the date when the offence in question was committed. Being unemployed, he might just be desperate for seeking a public appointment.

(ii) There is no record of the petitioner having been involved in any other similar criminal offence, either prior to or during the pendency or after the conclusion of the present case, indicating that the petitioner has reformed himself and successfully reintegrated into the mainstream of society.

(iii) The petitioner has faced rigors of criminal trial for a period of nearly 09 years.

(iv) The petitioner is now married and has two young children who are entirely dependent upon him. Continued rigour of criminal proceedings and incarceration would gravely impede his ability to provide for and raise his children, thereby causing undue hardship to innocent dependants.

(v) There is nothing on record to suggest any probability of reoffending.

24. It appears that the conduct constituting the offence was not the product of any inherent criminal propensity, but instead stemmed from an ill-conceived anxiety and over-zealousness to secure public employment. In



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the considered view of this Court, the ends of justice would be adequately met in the peculiar facts of the present case by extending some degree of latitude and leniency.

25. In view of the aforesaid, the present appeal is partly allowed. The sentence imposed upon the petitioner vide judgment dated 20.12.2018 passed in case No.CHI/130/2017 by the Chief Judicial Magistrate, Fazilka, for commission of offence under Section 465, 468 and 471 of the Indian Penal Code, 1860 is ordered to be reduced to the period already undergone.

26. Pending application(s), if any, shall stand disposed of.

14.11.2025

(VINOD S. BHARDWAJ)
JUDGE

SumitGusain

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