

CRR-1061-2025 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1061-2025 (O&M)
Date of Decision: 21.09.2026

RAM PRATAP GOYAL & ANOTHER

Versus
OM PRAKASH GOYAL & ANOTHER

OM PRAKASH GOYAL

Versus
RAM PRATAP GOYAL & OTHERS

... Petitioners

...Respondents
CRR-1941-2025 (O&M)

... Petitioner

...Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment was reserved	16.09.2026
2.	The date when the judgment is pronounced	21.09.2026
3.	The date when the judgment is uploaded on the website	21.09.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jimmy Singla, Advocate for the petitioners (through V.C.)
in CRR-1061-2025 and for respondent Nos.1 & 2
in CRR-1941-2025.

Mr. Vivek Aggarwal, Advocate for the petitioner in CRR-1941-2025 and for respondent No.1 in CRR-1061-2025.

Ms. Diya Sodhi, Sr. DAG, Haryana for respondent No.2.

JASJIT SINGH BEDI, J

This order shall dispose of two criminal revision petitions
bearing No.CRR-1061-2025 on behalf of accused-petitioner No.1-Ram



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Pratap Singh Goyal and petitioner No.-2-Parivahan Road Carriers through its sole proprietor Sh. Ram Pratap and the second Criminal Revision Petition i.e. CRR-1941-2025 filed on behalf of the complainant-petitioner/Om Prakash Goyal as the same arise out of the same impugned judgments.

2. The prayer in the revision petition bearing No.CRR-1061-2025 is for setting aside the judgment dated 03.04.2025 passed by the Additional Sessions Judge, Gurugram whereby the criminal appeal i.e. CRA No.105 of 16.08.2024 filed by the accused-petitioners against the judgment of conviction and order of sentence dated 25/26.07.2024 passed by the Judicial Magistrate 1st Class, Gurugram has been dismissed.

The prayer in CRR-1941-2025 is for setting aside the judgment dated 03.04.2025 passed by the Additional Sessions Judge, Gurugram whereby the Criminal Appeal No.110 of 17.08.2024 filed by the complainant-petitioner/Om Prakash Goyal seeking enhancement of compensation awarded to him vide judgment of conviction and order of sentence dated 25/26.07.2024 passed by the JMJC, Gurugram, has been dismissed.

3. For the sake of convenience, the facts are being taken from the revision petition CRR-1061-2025.

4. As per allegations levelled by the complainant/respondent (hereinafter known as the 'respondent No.1') the accused (hereinafter known as the 'petitioner No.1') being the Sole Proprietor of the enterprise Parivahan Road Carriers (accused No.2) [hereinafter known as the petitioner No.2] had business and family relationship with the respondent No.1 since long. In the month of December 2015, the petitioner No.1 requested for financial help to invest in his business and promised to return the same with interest. On this

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request, respondent No.1 arranged money by selling the property of his nephew and advanced Rs. 20 Lacs to the petitioner No.1 from January 2016 to June 2016. For security of the repayment, the petitioner No.1 issued two cheques of Rs. 10,00,000/- each. In 2020, after calculating the principal and interest a total amount of Rs. 40,00000/- was due against the petitioner No.1. On the request of the petitioner No.1, two security cheques given were returned and the petitioner No.1 issued four cheques no. 625835 to 625838 of Rs. 10 lacs each from his Axis Bank account. Petitioner No.1 promised to return the amount and requested not to present these cheques before his intimation for the same. In October 2020, the respondent No.1 demanded back the principal and profit. Once again the petitioner No.1 issued five cheques bearing No. 089829 to 089833 dated 21.06.2022 of Rs. 10,00,000/- each from his PNB Bank and took back his earlier four cheques no. 625835 to 625838. Thereafter, the respondent No.1 presented the said five cheques bearing No. 089829 to 089833 dated 21.06.2022 of Rs. 10,00,000/- each at his bank but the said cheques were dishonored on 07.09.2022 with remarks ‘account closed’. The respondent No.1 got issued a statutory notice dated 07.10.2022 as provided under Section 138 of N.I Act but the petitioner No.1 did not make the payment of the dishonoured cheques leading to the filing of the complaint.

5. In his preliminary evidence, CW-1 Om Parkash Goyal (respondent No.1) tendered his affidavit as Ex.CW-1/A, whereby he corroborated and reiterated the contents of the complaint and tendered the following documents with complainant:-

Exhibit Number	Description
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Ex.C1 to Ex.C4	Photocopies of cheques bearing No.625835, 625836, 625837, 625838
Ex.C5 to Ex.C9	Original cheques bearing No.089829, 089830, 089831, 089832, 089833 dated 21.06.2022
Ex.C10/1 to Ex. C10/5	Return memo dated 07.09.2022
Ex.C11	Certificate given by RBL dated. 15.09.2022
Ex. C12/1 to Ex. C12/5	Return memo dated 16.09.2022
Ex. C13	Legal notice dated 07.10.2022
Ex. C14/1 to Ex. C14/2	Postal receipts
Ex. C15	List of CDR
Ex. C15/1 to Ex. C15/18	Call chart details

6. Om Prakash Goyal/respondent No.1, tendered his affidavit Ex.CW1/A and reiterated the facts mentioned in the complaint. He proved the documents i.e., cheques Ex.C5 to C9 etc. During his examination, he admitted that he had advanced Rs.20,00,000/- which were arranged by him by selling the property of his nephew, Brij Mohan. Due to answerable mental condition of Brij Mohan, he was unable to manage his funds because of which he (respondent No.1) used to manage the accounts and property of his nephew.

7. In defence evidence, the petitioner No.1 appeared as DW-1 and deposed that he knew the complainant since the last 20-25 years. He deposed that his cheques were lost and yet filed a complaint regarding the same. He published the lost report in the newspaper Ex.DW1/A. Among other things, he deposed that he had given Rs.25,00,000/- to respondent No.1 for purchasing a house in the name of his sister-in-law and also admitted that the cheques Ex.C1 to Ex.C4 pertained to his accounts maintained with the Axis Bank and bore his signatures.

8. Based on the evidence led, the petitioners came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Gurugram vide judgment and order of sentence dated 25/26.07.2024 as under:-

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Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
138 of NI Act	SI for 01 year	Rs.60,00,000/-	--

9. Aggrieved against the said judgment of conviction and order of sentence, the petitioners preferred an appeal before the Additional Sessions Judge, Gurugram, which came to be dismissed on 03.04.2025.
10. The counsel for the petitioners/accused in CRR-1061-2025 contends that the judgments of conviction have been recorded on the basis of conjectures and surmises. The respondent No.1 has not been able to establish his financial capacity to advance the loan in question. There is no evidence on record as to how he was able to generate funds and the explanation furnished that he had asked his nephew, Brij Mohan, to sell his property is not borne out from any documents on record. The loaned amount has not been reflected in his ITRs. Therefore, the impugned judgments are liable to be set aside and the petitioners are liable to be acquitted of the charges framed against them.
11. The learned counsel for respondent No.1/complainant in CRR-1061-2025, on the other hand, contends that no fault can be found with the impugned judgments. The signatures on the cheques in question stand admitted. The explanation furnished by the petitioner No.1 of the cheques having been lost has rightly not been accepted by the Courts below. Once the signatures on the cheques have been accepted, then a presumption arises that the cheques have been issued for the discharge of a legal liability. Though the said presumption is rebuttable, in the instant case, the petitioners have been unable to rebut the same. Therefore, the present petition is liable to be dismissed.



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12. I have heard the learned counsel for the parties.

13. It is the case of the respondent No.1 that petitioner No.1/Ram Partap owed him Rs. 50 lacs which accrued from Rs. 20 lacs along with profits earned during the period from January 2016 to June 2022. Firstly, the petitioner No.1 delivered four cheques drawn on Axis Bank which were subsequently replaced by five post dates cheques worth Rs. 10 lacs each drawn on PNB at branch Sahibabad due for payment on 21.6.2022 (Ex.C1 to Ex.C9). In the interregnum he closed the NPA loan account on 30.06.2022. The cheques were presented at the bank with his consent on 16.09.2022 which were dishonoured due to such closure of the bank account. The respondent No.1 served a notice under Section 138 of NI Act upon the petitioners but they neither repaid the money nor responded thereto. The petitioner No.1 has admitted his signatures on all the nine cheques but has failed to prove his plea as to how they reached the hands of respondent No.1. The petitioner No.1 made a false statement that he had given Rs. 25 lacs in the year 2000 to the respondent No.1 which he never demanded back.

14. The petitioner No.1 himself appeared as DW1. He denied issuing the cheques in question Ex. C5 to Ex. C9 to the respondent No.1 but he admitted his signatures on the cheques. Cheques Ex.C5 to Ex.C9 belong to PNB Bank account no. 6314063140100210 of the petitioner No.1 maintained at Chikamberpur, District Ghaziabad. He deposed that his cheque book was lost at Rajender Nagar and he had approached the police by making a police complaint regarding this. He relied upon the police complaint Mark A and a publication in the newspaper dated 27.07.2022 (Ex DW1/A). Document Mark A is acknowledgment of an online loss report. He did not produce the copy of



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his complaint submitted to the police. However, during his cross-examination, when respondent No.1 confronted him with the copy of the complaint (Ex. DB) the petitioner No.1 admitted that his complaint filed before the police was dated 26.07.2022. Petitioner No.1 admitted the copy of loss report (Ex DB) raised before police on 26.07.2022. However, in the complaint (Ex DB) neither the particulars of the bank account nor particulars of the lost cheque leaves were mentioned. Further these particulars were not mentioned in the newspaper publication (Ex.DW1/A). In newspaper publication (Ex.DW1/A) it was mentioned that the account was closed. The respondent No.1 produced a report of the bank official Ex.DA showing that this account no. 6314063140100210 was declared Non Performing due to NPA and thereafter the same was closed on 30.06.2022. The complaint before the police was made on 26.07.2022. This account was not closed on the lodging of the complaint by the petitioner No.1 but it was already closed by bank on the request of the borrower on 30.06.2022. From the document Ex.DA, it is evident that account was closed on 30.06.2022 on the request of the borrower (petitioner No.1) which means that he was in the knowledge that his account was closed and the cheques would be dishonored. Once, the account holder knew that his account was already closed earlier on 30.06.2022, there was no need for him to lodge a complaint for loss of the cheques on 26.07.2022. Further the petitioner No.1 failed to explain as to why when his account was already declared NPA and was closed on 30.06.2022, he was carrying the signed cheque leaves of this closed account and that too at the Sabji Mandi on 26.07.2022. The conduct of the petitioner No.1 does not appear probable. The petitioner No.1 had to rebut the



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presumption under Section 118(2) and 139 of NI Act that the cheques were issued for the discharge of a legally enforceable debt. However, his conduct lends credence to the version put forth by the respondent No.1 that the cheques were issued for the discharge of a legally enforceable debt.

15. It is a settled position of law that once the accused admits his signatures on a cheque, then an initial presumption as contemplated under Section 139 of Negotiable Instruments Act has to be raised by the Court in favour of the complainant. However, the accused is entitled to rebut the said presumption either by furnishing evidence in his defence or from the cross-examination of the complainant.

16. In **Rangappa Vs. Mohan, 2010(3) RCR(Criminal) 164**, the Hon'ble Supreme Court held as under:-

14. In light of these extracts, we are in agreement with the respondent- claimant that the presumption mandated by Section 139 of the Act does indeed include the existence of a legally enforceable debt or liability. To that extent, the impugned observations in Krishna Janardhan Bhat (supra) may not be correct. However, this does not in any way cast doubt on the correctness of the decision in that case since it was based on the specific facts and circumstances therein. As noted in the citations, this is of course in the nature of a rebuttable presumption and it is open to the accused to raise a defence wherein the existence of a legally enforceable debt or liability can be contested. However, there can be no doubt that there is an initial presumption which favours the complainant. Section 139 of the Act is an example of a reverse onus clause that has been included in furtherance of the legislative objective of improving the credibility of negotiable instruments. While Section 138 of the Act specifies a strong criminal remedy in

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relation to the dishonour of cheques, the rebuttable presumption under Section 139 is a device to prevent undue delay in the course of litigation. However, it must be remembered that the offence made punishable by Section 138 can be better described as a regulatory offence since the bouncing of a cheque is largely in the nature of a civil wrong whose impact is usually confined to the private parties involved in commercial transactions. In such a scenario, the test of proportionality should guide the construction and interpretation of reverse onus clauses and the accused/defendant cannot be expected to discharge an unduly high standard or proof. In the absence of compelling justifications, reverse onus clauses usually impose an evidentiary burden and not a persuasive burden. Keeping this in view, it is a settled position that when an accused has to rebut the presumption under Section 139, the standard of proof for doing so is that of 'preponderance of probabilities'. Therefore, if the accused is able to raise a probable defence which creates doubts about the existence of a legally enforceable debt or liability, the prosecution can fail. As clarified in the citations, the accused can rely on the materials submitted by the complainant in order to raise such a defence and it is conceivable that in some cases the accused may not need to adduce evidence of his/her own.

(Emphasis supplied)

17. In **M/s Kumar Exports Vs. Sharma Carpets, 2009(1) RCR(Criminal) 478**, the Hon'ble Supreme Court held as under:-

“9. In order to determine the question whether offence punishable under Section 138 of the Act is made out against the appellant, it will be necessary to examine the scope and ambit of presumptions to be raised as envisaged by the provisions of Sections 118 and 139 of the Act. In a suit to enforce a simple contract, the plaintiff has to aver in his pleading that it was made for good consideration and must substantiate it by evidence. But

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to this rule, the negotiable instruments are an exception. In a significant departure from the general rule applicable to contracts, Section 118 of the Act provides certain presumptions to be raised. This Section lays down some special rules of evidence relating to presumptions. The reason for these presumptions is that, negotiable instrument passes from hand to hand on endorsement and it would make trading very difficult and negotiability of the instrument impossible, unless certain presumptions are made. The presumption, therefore, is a matter of principle to facilitate negotiability as well as trade. Section 118 of the Act provides presumptions to be raised until the contrary is proved (i) as to consideration, (ii) as to date of instrument, (iii) as to time of acceptance, (iv) as to time of transfer, (v) as to order of indorsements, (vi) as to appropriate stamp and (vii) as to holder being a holder in due course. Section 139 of the Act provides that it shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in Section 138 for the discharge, in whole or in part, of any debt or other liability. Presumptions are devices by use of which the courts are enabled and entitled to pronounce on an issue notwithstanding that there is no evidence or insufficient evidence. Under the Indian Evidence Act all presumptions must come under one or the other class of the three classes mentioned in the Act, namely, (1) "may presume" (rebuttable), (2) "shall presume" (rebuttable) and (3) "conclusive presumptions" (irrebuttable). The term 'presumption' is used to designate an inference, affirmative or disaffirmative of the existence a fact, conveniently called the "presumed fact" drawn by a judicial tribunal, by a process of probable reasoning from some matter of fact, either judicially noticed or admitted or established by legal evidence to the satisfaction of the tribunal. Presumption literally means "taking as true without examination or proof". Section 4 of the Evidence Act inter-alia defines the words 'may presume' and 'shall presume as follows: -

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"(a) 'may presume' - Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved or may call for proof of it.

(b) 'shall presume' - Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved."

In the former case the Court has an option to raise the presumption or not, but in the latter case, the Court must necessarily raise the presumption. If in a case the Court has an option to raise the presumption and raises the presumption, the distinction between the two categories of presumptions ceases and the fact is presumed, unless and until it is disproved.

10. Section 118 of the Act inter alia directs that it shall be presumed, until the contrary is proved, that every negotiable instrument was made or drawn for consideration. Section 139 of the Act stipulates that unless the contrary is proved, it shall be presumed, that the holder of the cheque received the cheque, for the discharge of, whole or part of any debt or liability.

Applying the definition of the word 'proved' in Section 3 of the Evidence Act to the provisions of Sections 118 and 139 of the Act, it becomes evident that in a trial under Section 138 of the Act a presumption will have to be made that every negotiable instrument was made or drawn for consideration and that it was executed for discharge of debt or liability once the execution of negotiable instrument is either proved or admitted. As soon as the complainant discharges the burden to prove that the instrument, say a note, was executed by the accused, the rules of presumptions under Sections 118 and 139 of the Act help him shift the burden on the accused. The presumptions will live, exist and survive and shall end only when the contrary is proved by the accused, that is, the cheque was not issued for consideration and in discharge of any debt or liability. A presumption is not in



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itself evidence, but only makes a prima facie case for a party for whose benefit it exists.

11. The use of the phrase "until the contrary is proved" in Section 118 of the Act and use of the words "unless the contrary is proved" in Section 139 of the Act read with definitions of "may presume" and "shall presume" as given in Section 4 of the Evidence Act, makes it at once clear that presumptions to be raised under both the provisions are rebuttable. When a presumption is rebuttable, it only points out that the party on whom lies the duty of going forward with evidence, on the fact presumed and when that party has produced evidence fairly and reasonably tending to show that the real fact is not as presumed, the purpose of the presumption is over. The accused in a trial under Section 138 of the Act has two options. He can either show that consideration and debt did not exist or that under the particular circumstances of the case the non-existence of consideration and debt is so probable that a prudent man ought to suppose that no consideration and debt existed. To rebut the statutory presumptions an accused is not expected to prove his defence beyond reasonable doubt as is expected of the complainant in a criminal trial. The accused may adduce direct evidence to prove that the note in question was not supported by consideration and that there was no debt or liability to be discharged by him. However, the court need not insist in every case that the accused should disprove the non-existence of consideration and debt by leading direct evidence because the existence of negative evidence is neither possible nor contemplated. At the same time, it is clear that bare denial of the passing of the consideration and existence of debt, apparently would not serve the purpose of the accused. Something which is probable has to be brought on record for getting the burden of proof shifted to the complainant. To disprove the presumptions, the accused should bring on record such facts and circumstances, upon consideration of which, the court may either



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believe that the consideration and debt did not exist or their non-existence was so probable that a prudent man would under the circumstances of the case, act upon the plea that they did not exist. Apart from adducing direct evidence to prove that the note in question was not supported by consideration or that he had not incurred any debt or liability, the accused may also rely upon circumstantial evidence and if the circumstances so relied upon are compelling, the burden may likewise shift again on to the complainant. The accused may also rely upon presumptions of fact, for instance, those mentioned in Section 114 of the Evidence Act to rebut the presumptions arising under Sections 118 and 139 of the Act. The accused has also an option to prove the non-existence of consideration and debt or liability either by letting in evidence or in some clear and exceptional cases, from the case set out by the complainant, that is, the averments in the complaint, the case set out in the statutory notice and evidence adduced by the complainant during the trial. Once such rebuttal evidence is adduced and accepted by the court, having regard to all the circumstances of the case and the preponderance of probabilities, the evidential burden shifts back to the complainant and, thereafter, the presumptions under Sections 118 and 139 of the Act will not again come to the complainant's rescue.”

(Emphasis supplied)

18. In the instant case, it is not disputed that cheques Ex.C5 to Ex. C9 belong to the account of the petitioners. Further petitioner No.1, in his statement u/s 263 (g) Cr.P.C. admitted his signature on cheque Ex.C5 to Ex. C9. Once the signatures have been admitted, then the Court can presume in view of Section 118 (2) and section 139 of N.I Act that the petitioner No.1 has issued the cheques bearing No. 089829 to 089833 dated 21.06.2022 of Rs. 10,00,000/- drawn from PNB bank account no. 6314063140100210



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maintained at Chikamberpur, District Ghaziabad, in favor of the respondent No.1 to discharge his legal debt or liability.

19. Whenever any claim is made on the basis of negotiable instrument, the presumption has to be drawn in favour of the holder of cheque (drawee) and the law has put the burden to rebut the presumption on the accused that the cheque was not issued by him against discharge of a debt or liability. It is not necessary for the accused to disprove the existence of a debt/ liability by way of direct evidence. Be that as it may, the petitioner No.1 has issued cheques on three separate occasions and the issuance of cheques on two occasions stand proved. He firstly issues cheques Ex.C1 to Ex.C4 totalling Rs.40 lakhs. Once again he issued cheques for an amount of Rs. 50 lacs vide cheques Ex.C5 to Ex.C9.

20. Quite apparently, the petitioners have failed to rebut the presumption existing in favour of the respondent No.1 by leading cogent evidence and have further failed to show that the cheques were not issued in discharge of any legally recoverable debt or liability.

21. The petitioners have challenged the financial capacity of the respondent No.1 in advancing the loan. The respondent No.1 has explained that his nephew had sold his property and the proceeds were loaned by him (respondent No.1) to the petitioners.

21. The Hon'ble Supreme Court in **Bir Singh Vs. Mukesh Kumar, AIR 2019 SC 2446** and this Court in **Raj Kumar Bansal vs. State of Punjab and another 2020(3) R.C.R.(Criminal) 369** have categorically held that even if, the complainant has not shown the loaned amount in his income tax return, the same at the most, can be a violation under the Income Tax Act and may or



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may not attract any penalty, but in any case, non-mentioning of the amount in the income tax return would not demolish the case of a complainant.

22. Keeping in view the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

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1. The learned counsel for the petitioner/complainant contends that the sentence of one year imposed upon respondent Nos.1 and 2 and the compensation of ₹60,00,000/- awarded by the learned Trial Court are inadequate, keeping in view the amount involved in the transaction and the fact that the five cheques in question were for a total amount of ₹50,00,000/-. He submits that the petitioner had advanced a sum of ₹20,00,000/- to respondent No.1, which along with the agreed interest had accumulated over the relevant period. He therefore, prays that the sentence as well as the amount of compensation deserve to be suitably enhanced.

2. The counsel for the respondent Nos.1 & 2/convicts, on the other hand, contends that as against the loaned amount of Rs. 20 lakhs, cheques worth Rs. 50 lakhs were dishonoured. Over and above, the Court has awarded compensation of Rs. 10 lakhs. Further, a sentence of one year has already been awarded. Therefore, the amount awarded as compensation and the substantive sentence as imposed are sufficient and are not required to be enhanced. Therefore, the present revision petition is liable to be dismissed.

3. I have heard the learned counsel for the parties.

4. As against loaned amount of Rs. 20 lakhs, cheques worth Rs. 50 lakhs were dishonoured. The Court has also awarded compensation of Rs. 10



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lakhs. Therefore, the compensation awarded of Rs. 60 lakhs is adequate in the attending facts and circumstances.

5. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

21.09.2026
JITESH

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