



2026:DHC:8979



\$~1 (Appellate)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 09.10.2026*

CNR No. DLHC010080962026

+ **CRL.REV.P. 134/2026**

CENTRAL BUREAU OF INVESTIGATIONPetitioner

Through: Mr. Tushar Mehta, SG and SPP, Mr. S.V. Raju, ASG and SPP, Mr. D.P. Singh, ASG and SPP with Mr. Manu Mishra, Ms. Garima Saxena, Mr. Pranjal Tripathi, Mr. Hitarth Raja Advocates alongwith Mr. J.S. Randhawa-DIG, Mr. IB Pendhari-SP, Mr. Alok Shahi-ASP and Mr. Naveen, Sub-Inspector for CBI.

versus

KULDEEP SINGH & ORS.Respondents

Through: Mr. Shadan farasat, Senior Advocate with Ms. Varisha Sharma and Mr. Kaustubh Chaturvedi, Advocates

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J. (Oral)

CRL.M.A. 31953/2026 (recall of direction in para 4 of order dated 08.05.2026 and para 9 of 17.08.2026)



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1. The present application has been moved on behalf of the applicant, Vijay S. Nair, seeking recall of the directions contained in paragraph 4 of the order dated 08.05.2026 passed by this Bench, as reiterated in paragraph 9 of the order dated 17.08.2026 passed by the Successor Bench.

2. The applicant submits that the Central Bureau of Investigation (CBI), by way of the above-captioned revision petition, has assailed the order dated 27.02.2026 passed by the learned Special Judge (PC Act), CBI-23 (MPs/MLAs Cases), Rouse Avenue District Courts, New Delhi, in CBI No. 56/2022, arising out of FIR No. RC-003 2022 A 0053 dated 17.08.2022, whereby all 23 accused persons, including the applicant herein, were discharged.

3. The applicant seeks modification of the order dated 08.05.2026, wherein it was recorded that respondent nos. 3 and 15 had filed applications challenging the maintainability of the revision petition. It is the applicant's case that, when the matter was taken up for hearing, this Bench, upon the submission advanced on behalf of the CBI, directed that the said applications be heard along with the main revision petition. It is submitted that the applicant had filed Crl. M.A. No. 13737/2026, raising a preliminary objection to the maintainability of the revision petition on the ground that the Advocates who had instituted the same were neither Public Prosecutors appointed under Section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023, nor Advocates holding a Vakalatnama executed on behalf of the CBI. The applicant's contention is that the



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objection concerns the competence of the person who instituted the revision petition and, therefore, raises a preliminary issue which ought to be decided before the challenge to the discharge order is considered on merits. It is further submitted that, subsequent to the order dated 08.05.2026, respondent nos. 8, 18 and 19 had also filed applications raising similar preliminary objections to the maintainability of the revision petition. *Vide* order dated 17.08.2026, the Successor Bench extended the aforesaid direction to the said applications as well, recording that the learned senior counsel appearing for the concerned respondents had no objection to their being considered along with the main revision petition. It is averred in the application that the direction to hear the maintainability applications along with the main revision petition requires reconsideration, as the objection raised by the applicant concerns the validity of the institution of the revision petition itself. It has accordingly been prayed that the direction contained in paragraph 4 of the order dated 08.05.2026 be recalled, and the application challenging the maintainability of the revision petition be heard and decided as a preliminary issue, before the revision petition is taken up for consideration on merits by the concerned Roster Bench.

4. The relevant portion of the order dated 08.05.2026 passed by this Bench is extracted hereunder:

“3. This Court is informed that respondent nos. 3 and 15 have filed applications, challenging the maintainability of the present petition. Replies to these applications have also been filed by the CBI.

4. The learned Solicitor General submits that arguments on the



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applications may be heard at the time of addressing arguments on the main petition. The learned counsels for the respondents have no objection to the same.”

5. The learned senior counsel appearing on behalf of the applicant/ respondent no. 3 argues that it has been wrongly recorded in the order dated 08.05.2026 that the learned counsels for the respondents had conceded to the arguments on maintainability being heard by the Court at the time of hearing of the revision petition itself. He states that he was present in Court and had not made any such statement and, therefore, seeks modification of the order to the extent that the sentence “*The learned counsels for the respondents have no objection to the same*” be deleted, since it has been incorrectly recorded and no such submission had been made by him. At the same time, he states that he has filed the present application along with an affidavit, taking responsibility as counsel, and that, although the Court may or may not recall what transpired during the hearing, the fact that he has filed an affidavit to this effect, despite the application being filed after five months, calls for modification of the aforesaid order.

6. The learned ASG appearing for the CBI, on the other hand, states that the application has been moved at a belated stage, after a lapse of five months, and that it is only a delaying tactic on the part of the respondents, particularly since the matter is now listed for arguments before the concerned Bench on 14.10.2026. He also states that this Bench had correctly recorded the submissions in the order dated 08.05.2026 and prays that the present application, being



meritless, be rejected.

7. This Court has **heard** arguments addressed on behalf of the learned counsels appearing for the parties and has gone through the material available on record.

8. Having gone through the same, this Court is of the view that the present application has been filed after a lapse of five months. It is crucial to note that, after 08.05.2026, the matter had been taken up by the concerned Roster Bench on 19.05.2026, 25.05.2026, 16.07.2026, 17.08.2026, 05.10.2026 and 06.10.2026, when no such objection had been raised, nor had any application been filed seeking modification or correction of the order.

9. However, as regards the contention of the learned senior counsel for the applicant/respondent no. 3, that the fact that he has filed the application along with an affidavit, taking responsibility as counsel, constitutes a meritorious ground for modification of the order, this Court finds the contention itself to be without merit. While this Court does not doubt the sense of responsibility with which the learned senior counsel has approached the matter, the fact remains that the order in question was dictated in open Court and thereafter signed by the undersigned. The judicial record, which records the proceedings and submissions made before the Court, cannot be displaced merely on the basis of a subsequent assertion to the contrary. No objection was raised by the learned counsel at the time the order was dictated in their presence. The order was thereafter uploaded, and five months have elapsed since it was uploaded on the



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official website of the Delhi High Court, during which period no such application was moved, nor was any prayer made before the concerned Roster Bench seeking correction of the order or requesting that the matter be placed before this Court.

10. In this regard, it would also be apposite to take note of the following observations of the Hon'ble Supreme Court in *State of Maharashtra v. Ramdas Shrinivas Nayak*: (1982) 2 SCC 463:

“4. When we drew the attention of the learned Attorney General to the concession made before the High Court, Shri A.K. Sen, who appeared for the State of Maharashtra before the High Court and led the arguments for the respondents there and who appeared for Shri Antulay before us intervened and protested that he never made any such concession and invited us to peruse the written submissions made by him in the High Court. We are afraid that we cannot launch into an inquiry as to what transpired in the High Court. It is simply not done. Public Policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena. “Judgments cannot be treated as mere counters in the game of litigation”. We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. **We cannot allow the statement of the judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the judges, to call attention of the very judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. Of course a party may resile and an**



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Appellate Court may permit him in rare and appropriate cases to resile from a concession on the ground that the concession was made on a wrong appreciation of the law and had led to gross injustice; but, he may not call in question the very fact of making the concession as recorded in the judgment.”

(emphasis added)

11. As regards the contention that this Court may not recall what had transpired on the date of hearing, as submitted by the learned counsel for the applicant, this Court, at the cost of repetition, observes that the submissions in question were recorded and noted on the record by this Court in the presence of the learned counsel for the applicant himself. The orders of the Court record what transpires in Court and what is dictated in the order sheet before it is uploaded. The submissions made by the learned senior counsel, therefore, do not disclose any ground for modifying the said order on the basis that this Court had incorrectly recorded his submissions.

12. The present application i.e. CRL.M.A. 31953/2026, being unmerited, is accordingly dismissed.

13. Needless to say, the learned Roster Bench shall be at liberty to consider any other plea raised before it. The present order shall not be construed as an expression of opinion on the merits of the preliminary objections to the maintainability of the revision petition.

14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
OCTOBER 09, 2026/ns