

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 185 of 2025

Reserved on: 18.03.2026

Date of Decision: 04.05.2026

NCB

...Petitioner

Versus

Sandeep Singh & Others

...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting? No

For the Petitioner : Mr Ashwani Pahtak, Senior
Advocate, with Mr Dev Raj,
Advocate.

For the Respondent : Nemo

Rakesh Kainthla, Judge

The petitioner has filed the present petition for quashing of the orders dated 18.10.2025 and 06.01.2026 passed by the learned Judicial Magistrate First Class, Kullu District, Kullu in applications filed under Section 52A of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act) in crime

number 21/2025 registered at NCB Chandigarh Zonal Unit, Mohali, for the commission of offences punishable under Sections 8, 15, 27A, 29, 60 and 61 of the NDPS Act.

2. Briefly stated, the facts giving rise to the present petition are that the petitioner had seized 176.512 KG poppy husk from a vehicle bearing Registration No. PB-35AM-6738 Ashoka Leyland in Crime No. 21/2025 dated 17.10.2025 registered at NCB Chandigarh. The petitioner impounded the vehicle bearing Registration No. PB-07CE-7760 for escorting the truck. The petitioner filed an application under Section 52A of the NDPS Act for certification of the inventory of the seized narcotics and the vehicles before the learned Judicial Magistrate, First Class, Kullu, on 18.10.2025. Learned Judicial Magistrate, First Class, Kullu allowed the application and certified the correctness of the inventory of the seized narcotic substance. However, no order was passed regarding the vehicles seized by the NCB and described at Serial Nos. 19 and 20 in the list of inventories, even though the vehicles were produced before the learned Magistrate. The petitioner noticed this omission and filed an application for correction of the inventory, which was dismissed by the learned Magistrate on

the ground that no vehicle was produced before her. The vehicles were taken to the Court and were parked alongside the Court premises physically, and this fact was not noticed by the learned Magistrate. Hence, the present petition was filed for quashing the orders dated 18.10.2025 and 06.01.2026 passed by the learned Judicial Magistrate, First Class, Kullu.

3. Mr Ashwini Pathak, learned Senior Advocate, assisted by Mr Dev Raj, learned counsel for the petitioner, submitted that the learned Magistrate had not inadvertently mentioned the details of the vehicles produced before her and taken the photographs. Subsequently, an application was filed for correcting this error, but the learned Magistrate dismissed the application. The grounds for dismissal are not proper. Therefore, he prayed that the present petition be allowed and the orders passed by the learned Magistrate be set aside.

4. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

5. The learned Magistrate had passed a detailed order on 18.10.2025 mentioning that 18 white nylon sacks, Lot A to R, were produced before her. Learned Magistrate noticed the contents of Lots A to R. She had specifically mentioned in Para-

20 of her order that the whole process was photographed on the mobile phone of Inspector Aditya Kumar Shukla. The samples were drawn and were handed over to Inspector Aditya Kumar Shukla with case property for further action. The order does not mention that any vehicle was produced before the learned Magistrate.

6. The petitioner filed an application, which was disposed of on 06.01.2026. The Learned Magistrate noticed that the seized vehicle or the photographs were not shown to the Court, due to which no order was passed regarding their certification.

7. It was laid down by the Hon'ble Supreme Court in *Central Bank of India v. Vrajlal Kapurchand Gandhi*, (2003) 6 SCC 573: 2003 SCC OnLine SC 697 that the statement of facts that transpired during the hearing is conclusive and cannot be challenged before another court. It was observed:

“11. The rival contentions need careful consideration. There can be a quarrel with the proposition as submitted by Mr Nariman that if an order records something, a party cannot be permitted to plead to the contrary, especially in matters as to whether there was any concession regarding a point, or whether it was given up at the time of the hearing.

12. The only course open to a party taking the stand that an order does not reflect the actual position is to move the High Court in line with what has been said in *State of Maharashtra v. Ramdas Shrinivas Nayak* [(1982) 2 SCC 463: 1982 SCC (Cri) 478]. In recent decisions, i.e. *Bhavnagar University v. Palitana Sugar Mill (P) Ltd.* [(2003) 2 SCC 111: 2002 AIR SCW 4939] and *Roop Kumar v. Mohan Thedani* [(2003) 3 Scale 611: (2003) 6 SCC 595], the view in the said case was reiterated. 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 an 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 the attention of the very judges who have made the record. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. It is not open to a party to contend before this Court to the contrary. This Court cannot launch into an enquiry as to what transpired in the High Court. It is simply not done. Public policy and judicial decorum do not permit it. Matters of judicial record in that sense are unquestionable. However, the Court can pass appropriate orders if a party moves it, contending that the order has not correctly reflected happenings in court.”

8. This position was reiterated in *Shankar K. Mandal v. State of Bihar*, (2003) 9 SCC 519: 2003 SCC (L&S) 1145: 2003 SCC OnLine SC 554, wherein it was observed at page 524:

“11. If really there was no concession, or a different stand was taken, the only course open to the appellant was to move the High Court in line with what has been said in *State of Maharashtra v. Ramdas Shrinivas Nayak* [(1982) 2 SCC 463: 1982 SCC (Cri) 478]. In a recent

decision *Bhavnagar University v. Palitana Sugar Mill (P) Ltd.* [(2003) 2 SCC 111: 2002 AIR SCW 4939] the view in the said case was reiterated by observing 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 the attention of the very Judges who have made the record. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. It is not open to the appellant to contend before this Court to the contrary.”

9. Therefore, it is impermissible for this Court to hold that the vehicles were produced before the learned Magistrate and the learned Magistrate had inadvertently failed to mention them in the inventory. The order was passed in the presence of the Investigating Officer. The petitioner remained silent and did not approach the Magistrate immediately to bring her attention to the error in the order. Once the learned Magistrate has mentioned in her order that no vehicles or photographs were produced before her, this observation is conclusive and can only be rectified by the learned Magistrate as per the judgment of the Hon’ble Supreme Court, and the petition before this Court for this purpose is not maintainable.

10. No other point was urged.
11. In view of the present application failing, it is dismissed.
12. The observations made hereinbefore shall remain confined to the disposal of the present petition and will have no bearing whatsoever on the merits of the case. The present petition stands disposed, and so are the miscellaneous applications pending, if any.

(Rakesh Kainthla)
Judge

4th May, 2026.
(Ritu)