

2026:PHHC:132765-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-D-838-DB-2005 (O&M)

Reserved on: September 09, 2026

Date of Pronouncement: September 16, 2026

Uploaded on: September 16, 2026

Surinder Kumar

...Appellant

VERSUS

State of Haryana

...Respondent

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI
HON'BLE MS. JUSTICE MANDEEP PANNU**

Present: Ms.Geeta Sharma, Advocate
for the appellant.

Mr.Dhruv Dayal, Addl. AG, Haryana
for the respondent-State.

ARCHANA PURI, J.

Appellant-Surinder Kumar has filed the present appeal to assail the judgment dated 21.10.2005, whereby, he was held guilty and convicted for commission of offences under Section 302 IPC. He was sentenced to undergo imprisonment for life and to pay a fine of Rs.3,000/-, in default whereof, he was further directed to undergo rigorous imprisonment for a period of six months.

As per the version put forth by the prosecution, on 05.05.2004, Rajesh s/o Hari Parkash had got recorded his statement, wherein, he had stated about himself to be resident of Kharkhoda. His Bua Ram Pyari also

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lives in Kharkhoda. His Bua's son Sanjay, was working as a conductor on Redline bus in Delhi, who had come to his house about 4-5 days ago. Two days prior to the date of occurrence, a quarrel had taken place between Sanjay and Surinder Kumar, over money dispute. He (complainant) had intervened and had extended assurance that the dispute shall be soon settled. On the date of occurrence i.e. 04.05.2004, the complainant and Sanjay had gone to old Bazar Kharkhoda for some personal work. Sanjay was ahead of complainant by about 15-20 paces, when the complainant sat for urination in the street. It was about 10.00 P.M. When Sanjay reached in front of the shop of Sunny Barber, Surinder Kumar was standing in the street near that shop. On seeing Sanjay, Surinder Kumar extorted to teach him a lesson for raising a quarrel with him. Then Surinder Kumar had given 5-6 blows on the chest, two blows on the back and 2-3 blows on the head of Sanjay, with an ice-breaking Sua/knife. The complainant ran towards Sanjay and tried to rescue him and also tried to catch hold of Surinder Kumar. However, Surinder Kumar was successful in running away, after getting himself released from the complainant. Thereafter, complainant had look at Sanjay, who had succumbed to his injuries by that time. Then immediately, complainant had rushed back to his house and narrated about the occurrence to his father Hari Parkash. Then complainant along with his father as well as other family members reached the spot. His bua's son was murdered by Surinder Kumar, on account of grudge nursed by him, due to the quarrel.

The requisite FIR was registered, on the basis of the statement got recorded by complainant Rajesh.

During the course of investigation, SI Yad Ram, had visited the spot of occurrence and had got conducted the photography of the spot. He



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inspected the spot as well as dead-body and prepared rough site plan of the place of occurrence. He also lifted bloodstained earth and a pair of chappals from the spot, which were converted into parcels and taken into possession vide separate memos. Inquest report was also prepared. The post-mortem examination on the dead body was also got conducted. On 06.05.2004, accused Surinder Kumar was produced before SI Yad Ram by one Vijay s/o Sagar Chand. During the course of interrogation, in the presence of Rajiv s/o Hari Ram, Surinder Kumar had made disclosure statement, on the basis whereof, he got recovered the knife/Sua. The sketch of knife/Sua was prepared and it was taken into possession vide separate memo.

On completion of the investigation, the accused was sent to face trial for commission of offences under Section 302 IPC and Section 25 of the Arms Act. The charge was framed against the accused, to which he pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as many as twelve witnesses. The material witnesses are **PW-1** Dr.Naresh Dahiya, who had conducted the post-mortem examination and opined about the cause of death to be multiple injuries to vital structure like left lung and heart. **PW-6** Rajesh, complainant, who had given the detail of manner of taking place of the occurrence and also deposed about recording of his statement by the police, on the basis whereof, FIR was got registered. **PW-11** SI Yad Ram, who is the investigating officer of the present case, has deposed about the detail of the investigation conducted by him.

Besides the aforesaid witnesses, the prosecution examined **PW-2** Inder Pal, Draftsman, who deposed about the preparation of the scaled site plan. **PW-3** Constable Dharambir and **PW-8** Head Constable Rajpal had tendered

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into evidence their respective affidavits, regarding link evidence. **PW-4** Head Constable Naresh Kumar deposed about delivery of special report. **PW-5** Constable Manjit Singh deposed about having facilitated conducting of the post-mortem examination on the dead body. **PW-7** Shiv Kumar, Photographer is the photographer, who had clicked the photographs. **PW-9** ASI Ram Kumar proved the FIR Ex.PF/1. **PW-10** ASI Chhattar Singh and **PW-12** Rajiv Kumar deposed about having attested the disclosure statement made by the accused and recovery of knife, at the instance of the Surinder Kumar and the documents prepared, relating to the same.

Reports of FSL Ex.PG and Ex.PG/1 were also tendered into evidence.

On closure of the evidence, all the incriminating circumstances appearing in the prosecution evidence, were put to accused Surinder Kumar, in his statement under Section 313 Cr.P.C. However, he denied those allegations and pleaded innocence.

In defence, accused tendered into evidence certified copies of orders Ex.D1 and Ex.D2, to substantiate that the deceased was involved in the case under Section 307 IPC.

After hearing learned Public Prosecutor for the State as well as learned defence counsel and on appraisal of the evidence, brought on record, learned trial Court had convicted and sentenced the appellant, as detailed aforesaid.

Being aggrieved, appellant Surinder Kumar has filed the present appeal.

We have heard learned counsel for the appellant as well as learned State counsel and with their able assistance, gone through the trial Court record.



At the very outset, learned counsel for the appellant has submitted that even though, the prosecution has built the case on direct evidence,, but however, the statement of sole eye witness, who is also the complainant, is not above board. He is related/interested witness and therefore, reliance cannot be placed upon his statement solely. Furthermore, counsel submits that the ocular version is at variance with the medical evidence, brought on record, as the weapon of offence, as stated by the eye witness, is not the same, as alleged and therefore, there is mismatch of the ocular and the medical evidence, which raises doubt about the prosecution version. Further, it is submitted that neither disclosure statement, as such, was made by the appellant, nor any recovery of weapon of offence was effected, on the basis thereof. It is also submitted that there is delay in lodging of the FIR and also the consequential delay in sending of the special report to the Illaqa Magistrate. Further, counsel for the appellant has submitted that there are discrepancies in the evidence, brought on record, which cause fatal blow to the prosecution version.

Thus, summing up her arguments, counsel for the appellant has made a prayer for acceptance of the appeal and to acquit the appellant.

In refutation, learned State counsel has submitted that it is a case of direct evidence and that too, at the instance of cousin of the deceased, who was accompanying him, at the relevant time of taking place of the occurrence and thus, had witnessed the same. His testimony is the most natural and credible and thus trustworthy. The same coupled with the medical evidence, brought on record, unerringly, point the needle of guilt towards the appellant. Further, the prosecution version gains strength from the fact of recovery of the weapon of offence, at the instance of the



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appellant, in pursuance of the disclosure statement made by him. As such, it does establish the complicity of the appellant. Thus, learned State counsel makes prayer for dismissal of the appeal.

In the light of the submissions aforesaid, at the very outset, it is pertinent to note that the case before us is of direct evidence, wherein, PW-6 Rajesh complainant, being the sole eye witness, has witnessed the entire incident, when his cousin Sanjay, was being inflicted injuries, as a result whereof, he had died instantaneously. The deposition of PW-6 Rajesh is reproduced, as herein given:-

“I am driver by profession, I used to drive car of Mahajan. My Bua used to reside in Shashtri Nagar, Kharkhoda. My cousin namely, Sanjay and Surender accused present in court were quarreled with each other on 3-5-2004 over transaction of money. On 4-5-2004 I alongwith my brother Sanjay had gone in the old market of Kharkhoda for some work. We were going towards market at about 10-00 P.M. As soon as we reached near the shop of Giani Ram Mahajan, Sanjay was going ahead of me since I sat to urinate. I was 15 feet behind from Sanjay. Accused Surender had a Sua in his hands and he asked Sanjay to teach a lesson for quarrel of yesterday and saying so he inflicted five Sua blows on the chest of Sanjay and two blows with the said sua on the back of Sanjay and one Sua blow on the back side of his head. Surender accused had given 8/9 sua blows on the person of Sanjay, since deceased. I become perplexed. I had tried to chase Surender but the accused fled away after causing injuries. Thereafter I saw Sanjay who succumbed his injuries at the spot. Then I went to my home to call upon my family members and brought my father Hari Parkash and uncle Naresh at the spot. Then I leaving my father and uncle at the spot, was going to the police station to lodge a report when on the way police patrolling party met me at Brahman Darwaja and there I made my statement to the police



which is Ex.PF. It bears my signatures.”

Even, in the cross-examination, he had categorically stated about the manner of accompanying the deceased, at the relevant time. He had also stated about the manner, in which, after finding death of Sanjay to have taken place, he had proceeded to his house. Though, the said witness was subjected to lengthy cross-examination, but he withstood the same as hardrock. But for explaining the manner of accompanying the deceased and also of his proceeding to his house to inform his family, there are stated to be certain contradictions, coming forth, which have been pointed out by counsel for the appellant and it is claimed that it improbabilizes the prosecution version.

Even though, much emphasis is laid upon the distance of the police station from the spot of occurrence and it is submitted that behaviour and conduct of the appellant, soon after the occurrence, was most unlike normal expected human behaviour, as he had never taken Sanjay to the hospital nor he had gone to the police station, which were situated nearby and rather, he had chosen to go to his house. May it be so, looking at this conduct of the complainant, the same does not, in any manner, falsify the prosecution version. It ought to be kept in mind that when such an attack is made by sharp weapon and that too, on the vital parts of the body of the victim and occurrence lasts not more than a minute or two and also death having occurred instantaneously, any person, who witness the same, is bound to be dumbstruck and would react in different manner, which as such, cannot be considered to be against the normal expected behaviour. In such a situation, what kind of reaction would come from such a person, cannot be depicted in any manner. In fact, the human nature is such variant that a person may



react in various manners to such situation.

In the case in hand, the complainant is the first cousin of the deceased. He had categorically stated that he tried to chase Surinder Kumar, but he had fled away after causing the injuries. Thereafter, he had seen Sanjay, who succumbed to his injuries and then, he went to his house to call upon his family and brought his father Hari Parkash and uncle Naresh, at the spot. It is spelt out from the evidence on record that the complainant was on foot at that time and also that house of the complainant was nearby to the spot of occurrence. Considering the conduct of the complainant, having gone to his house, only after noticing about the injured to have succumbed to his injuries, as such, cannot be concluded to be against the expected normal human behaviour, more particularly, when the death, as such had already taken place before his eyes. In such circumstances, obviously, the present witness, who was companion of the deceased, is bound to have become perplexed and would seek refuge and help from his family members, which made him to go to his house. Not having gone to the police station at that time, cannot be taken as a doubtful circumstance.

On similar lines, even not proceeding to the hospital, more particularly, when the deceased and witness were on foot and also particularly, when the injured had already succumbed to his injuries, does not render the prosecution version, doubtful.

From the testimony of the complainant, it is evident that Rajesh complainant had remained unshaken in both his chief examination and cross-examination, on the aspect that it was indeed appellant Surinder Kumar, who inflicted such brutality upon Sanjay, which ultimately led to his instantaneous death, at the spot. It is well-established rule in criminal



jurisprudence that direct ocular evidence, if found to be natural, cogent and trustworthy, constitutes the best form of evidence and ordinarily prevails over all forms of evidence. In this regard, beneficial reference is made to ***Shahaja alias Shahajan Ismail Mohd. Shaikh vs. State of Maharashtra, 2023 (12) SCC 558***, wherein, it was observed, as herein given:-

“30. To put it simply, in assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, the circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, yet the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or puts forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.

31. There is nothing palpable or glaring in the evidence of the two eyewitnesses on the basis of which we can take the view that they are not true or reliable eyewitnesses. Few contradictions in the form of omissions here or there is not sufficient to discard the entire evidence of the eyewitnesses.”
(emphasis supplied)

When there is a direct evidence, in the form of a sole eyewitness



testimony, there exists no legal impediment, on convicting solely on the basis of that, since what matters is the quality and not the quantity of the witness. The aforesaid principle was authoritatively laid down in the case of ***Vadivelu Thevar v. State of Madras, AIR 1957 SC 614***, wherein it was held:

“16. It is not necessary specifically to notice the other decisions of the different High Courts in India in which the Court insisted on corroboration of the testimony of a single witness, not as a proposition of law, but in view of the circumstances of those cases. On a consideration of the relevant authorities and the provisions of the Evidence Act, the following propositions may be safely stated as firmly established:

16.1. As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character.

16.2. Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, for example in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character.

16.3. Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much depends upon the judicial discretion of the Judge before whom the case comes.”

In this regard, it is necessary to take note of the latest decision rendered by the Hon’ble Supreme Court in the case titled ***Balku Oram vs. State of Odisha, 2026 INSC 852***, wherein also, relying upon the aforesaid case law, it was held that sole testimony of the eye witness is sufficient, if found credible, consistent and corroborated by medical evidence.



In view of these considerations, it is pertinent to mention that nowhere the law requires plurality of witnesses, in proof of the crime. It is the discretion of the Presiding Judge, which comes into play. The matter depends upon the circumstances of each case and the quality of the evidence of a single witness, whose testimony, either has to be accepted or rejected. If the Court reaches the conclusion that such a testimony is reliable, then there is no legal impediment to base conviction upon the same. Even, as the guilt of an accused person, may be proved, by the testimony of a single witness, the innocence of an accused person, may be established on the testimony of a single witness, even though, a considerable number of witnesses, may have been examined, to testify to the truth of the case for the prosecution. As such, it is quite obvious and well-established rule of law that the Court is concerned with the quality and not with the quantity of the evidence, necessary for proving or disproving a fact. The time-honoured principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy.

Tested on the aforesaid touchstone, the testimony of Rajesh, inspires complete confidence. Being the natural sole witness, who was accompanying the victim at the relevant time, his presence at the spot, cannot be doubted. It is quite natural and unquestionable.

A faint attempt was also made, while appraising the testimony of Rajesh, being closely related to the victim, being his Bua's son and therefore, this witness fell within the bracket of related/interested witness; hence, his sole testimony, should not be relied upon for sustaining the conviction of the appellant. However, the submission aforesaid, is bereft of merits. The credibility of any witness, may be related or not, has to be



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determined, keeping in view the facts and circumstances of each case. A close relative, who is very natural witness, cannot be regarded as an interested witness, solely on account of this relationship.

Accompanying of the complainant with the deceased, at the relevant time, is most natural, as they were proceeding to Old Bazaar Kharkhoda, for some personal work. The complainant, at the relevant time, was urinating in the street and the victim had covered some distance, till he reached near the shop of Sunny barber, where the appellant was present and instantly, he had extorted to teach a lesson for picking up a quarrel with him and attacked the victim. The occurrence, as such, had taken place in a quick succession and the complainant had seen and reached the spot and had tried to chase the appellant also. Therefore, this witness is quite natural and as observed aforesaid, in any manner, cannot be equated as interested witness, merely because of his relationship with the victim.

Additional credence to the version of the sole eye witness is also lent by the medical evidence, brought on record. PW-1 Dr.Naresh Dahiya, who had conducted post-mortem examination on the dead body of Sanjay and proved the post-mortem report, had found the injuries to be ten in number. Six injuries were sharp punctured injuries having regular margins and two were sharp pointed wounds. This witness has also categorically stated that an application for seeking opinion regarding the injuries, on the person of victim, with the weapon mentioned therein was filed and the application, was moved on 07.05.2004, which is Ex.PB. He had given his opinion upon the same, which is Ex.PB/1. This witness stated that the police had shown him some weapon and after seeing the weapon, he gave the opinion that injuries mentioned in the post-mortem report of the

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deceased, having been caused by the said weapon, cannot be ruled out. This opinion was further endorsed, when in cross-examination, he reiterated that the injuries having been caused by the weapon shown to him by the police and as mentioned in the sketch, cannot be ruled out. The opinion Ex.PB/1 was made on the application in the handwriting of the said witness only.

Though, counsel for the appellant has also submitted that the weapon of offence was stated to be Sua but however, while pointing out to the sketch, it is stated that it was not Sua. However, this contention does not carry much weight. Even though, the complainant had stated about it to be an ice-breaking Sua, but however, the weapon, as such, recovered at the instance of appellant, was shown to the doctor and he had given the opinion, as aforesaid. In the light of the same, the description of the weapon of offence, given by the complainant, as such, has to be taken in context with the opinion brought on record, which creates the linkage of the injuries found on the dead body of Sanjay.

In view of the opinion, so coming forth, the description given by the witness, in any manner, cannot be stated to be wrong, being mismatched with the evidence, brought on record, more particularly, when the occurrence is bound to have taken place only for a short duration, covering about a couple of minutes and successive injuries were given with the same. Therefore, there is no worth considering contradiction coming forth, which causes a doubt about the weapon used in the occurrence.

Even, additional credence comes forth from the fact of recovery of weapon, at the instance of the appellant, in pursuance of the disclosure statement made by him. As per the prosecution version, the appellant was produced by Vijay s/o Sagar Chand. It was thereupon, during the course of



interrogation that the appellant had made disclosure statement. Though, much emphasis is laid upon Vijay having not joined as attested witness in the disclosure statement, but however, it be noted that from the testimony of PW-11 SI Yad Ram, Investigating Officer and PW-10 ASI Chhattar Singh, who was accompanying the police party, as well as PW-12 Rajiv Kumar, who had attested the disclosure statement, it is evident that it was after the production of the accused by Vijay that interrogation of the appellant was conducted and that Vinod had gone by, after producing him. In these circumstances, when the interrogation was conducted subsequently and disclosure was so made, therefore, question of Vinod having not been joined for the attestation purpose, as such does not arise.

In fact, both the attesting witnesses to the disclosure statement, as such, have been examined and they have categorically deposed about the disclosure so made and also about the recovery of the weapon having so effected and they were subjected to lengthy cross-examination, but nothing material elicited out, to dislodge the prosecution version.

During the course of submissions, much emphasis has also been laid upon the delay in registration of the FIR and consequential delay in receipt of the special report by the Illaqa Magistrate. However, it is always unexplained delay, which ought to be taken into consideration. In the case in hand, the occurrence had taken place, at night time at about 10.00 p.m. After staying at the spot for some period of time and after noticing Sanjay to have died at the spot, the complainant had gone to his house and thereafter, he came back to the spot along with his father and his uncle and while leaving them there, he had gone to inform the police and enroute he had met the police. It is also coming forth that it was at a distance of about 1/2 kms,



the complainant had met the police party and got recorded his statement. The statement is Ex.PF/1. Perusal of the endorsement made by the Investigating Officer upon the same, reveals that the statement was completed and thereafter, endorsement was made and time of recording of the same is mentioned as 12.05 a.m. of 05.05.2004, whereas, the occurrence had taken place on 04.05.2004 at about 10.00 p.m.

The police endorsement also reflected that the special reports were sent to the officers concerned through Constable. Head Constable Naresh Kumar, who had taken the special reports, had stepped into witness box as PW-4 and he had categorically stated about his being posted at Police Station Kharkhoda on 05.05.2004. He was handed over the three copies of special report, which he had handed over to Illaqa Magistrate, S.P. and DSP Head Quarter, without loss of time. In cross-examination, he had stated that he started from Kharkhoda at about 1.00 a.m. and came to Sonipat in a truck. The distance between Kalupur Chungi and the Court complex is about 3 kms. He got down from the truck at Kalupur Chungi and came on foot to the residence of the Illaqa Magistrate. It took him about 30-45 minutes. He delivered the special report to the Illaqa Magistrate at about 5.15 a.m. Further, he deposed that it took him about 1½ -2 hours to reach Sonipat from Kharkhoda.

Considering the seriatim of facts, as stated aforesaid, do suggest that there was no delay in lodging of the FIR and furthermore, with regard to reach of special report with the Illaqa Magistrate. As such, the time consumed in between, stands duly explained and therefore, it cannot, in any manner, raise doubt about the FIR, being ante-timed. Rather, the reasons, as such, coming forth and the manner in which the Head Constable, through



whom the special reports were dispatched, had proceeded, reflects about the prompt recording of the FIR, at first instance and thereupon, the special report was also promptly dispatched and thus, no doubt is raised, with regard to the prosecution version, on this count.

Further, it has been pointed out by counsel for the appellant that there are contradictions and discrepancies coming forth, in the testimony of the sole witness. However, on this count, suffice to consider that few contradictions in the form of omissions, here or there or minor not affecting the broad outlay of the occurrence, is not sufficient to discard the entire evidence of the eye witness. A careful perusal of the testimony of the complainant reveals that there are some discrepancy coming forth, with regard to the distance of his workplace or his house or the police station nearby the spot and of the avocation followed by him as well as with regard to the intervention to pacify the victim and the appellant, in the earlier quarrel, it matters not much, as the broad case of the prosecution, as such, is amply established and eye witness account of the complainant has been found to be reliable and trustworthy.

Though, an attempt has been made by the appellant, while relying upon Ex.D1 and Ex.D2 to pin point that the deceased was having criminal type of background and he was already involved in the case under Section 307 IPC and therefore, it was a blind murder, but however, this plea is too vague. These documents do not establish of its own about any animosity or bitterness, nursed against the deceased by any person, which led to his murder. Simply on the score of one criminal case pending, did not establish about the same to be a blind murder, more particularly, when it is already observed aforesaid that the testimony of the eye witness is clear, specific and



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trustworthy.

Further counsel for the appellant has pointed out that though, it is claimed by the prosecution that the dispute had arisen between the victim and the appellant, therefore, it was only with this malafide intention that the appellant has been falsely implicated. However, on this count also, suffice to consider the denial of the dispute by the appellant, in his statement under Section 313 Cr.P.C. Even if it is assumed that there was no dispute, as such, taken place, then also, what is the reason for false implication, was required to be established and relating to the same, nothing as such, has been brought on record.

In the light of the aforesaid observations, learned trial Court has rightly held appellant-Surinder Kumar, to be guilty and convicted him under Section 302 IPC. Thus, the appeal sans merit and is hereby dismissed.

The appellant is on bail. A copy of the judgment be sent to concerned Chief Judicial Magistrate, to initiate process of re-arrest of the appellant, so as to serve the remaining part of the sentence.

The pending misc. applications, if any, shall stand disposed of.

(ARCHANA PURI)
JUDGE

(MANDEEP PANNU)
JUDGE

September 16, 2026
Vgulati

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