

**IN THE COURT OF ADDL. JUDICIAL MAGISTRATE FIRST
CLASS, DHOLKA**

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CC 2687/2021

: ORDER BELOW APPLICATION EXH. 28 :

1. On complainant side an application vide Exh. 28 to recall the complainant and re-examined him. Considering the application it appears that the complainant in his affidavit of examination in chief mentioned an agreement of mortgage however, the same was not produced on the complainant side and the cross examination of the complainant was over on 05.08.2024 and this application is also filed on 05.08.2024 with prayer that the above original mortgage agreement is very much important to be referred and for that the complainant may be ordered to be reexamined in the interest of justice.

On defendant side the objection vide Exh. 30 against the above application is produced and in his objection it is submitted that the above original mortgage deed was not produced by the complainant at the time of his examination and just to fill the lacuna of the evidence the application is presented and there is no supporting evidence regarding the claim of the compensation that the original mortgaged deed was misplaced and further it is also submitted that as per the judgment in Hon'ble Supreme Court in **Neha Begam Vs. State of Assam** Special Leave Appeal Cri. 3910/2024 the right of the complainant to reexamine cannot be offered just to fill the lacuna of the complainant side.

02. Both the Id. Advocates have argued on their side and considering the application and objections it appears that at present, the stage of the case is evidence of the complainant and complainant has presented an application to reexamine the complainant on the same day on which his examination was over and therefore considering the reason of the application and present stage of the Criminal Case the complainant is required to be examined on the above original mortgage deed and the same mortgage deed is already referred by the complainant in the complaint and therefore by reexamining the complainant on the same ground cannot prejudice the accused because there is no new ground or reasons are stated other than the complainant and therefore the following order is passed.

: ORDER :

- 1 The Application vide Exh. 28 is **allowed** and complainant is directed to remain present on the next date without fail.

Pronounced in open Court today on the 21st July, 2026.

**[Rutvij Falgunbhai Trivedi]
Add. Civil Judge & JMFC
Dholka, A'bad(R)
GJ01748**