

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 742 of 2026**

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HASAN MAMADBHAI KAKAL & ANR.

Versus

STATE OF GUJARAT

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Appearance:

M S PADALIYA(7406) for the Applicant(s) No. 1,3

MS JYOTI BHATT, ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE GITA GOPI****Date : 18/03/2026****ORDER**

1. Heard learned advocate for the applicants.
2. By way of this application, it appears that challenge has been given to the order of the learned Sessions Judge, Jamnagar in Sessions Case No.150 of 2017 for deposit of Rs.50,000/- in District Legal Services Authority, Jamnagar, where the application has been allowed for re-examining of witnesses No.7, 8, 13, 15 and 16.
3. It appears that an application has been moved for recalling the witnesses since the Advocate on record has been changed. The learned trial Court Judge appears to have mechanically allowed the application - Exhibit 87

citing the provision of Section 311 of Code of Criminal Procedure, 1973 (hereinafter referred to in short as 'Cr.PC'), without even considering the object behind the provision and without making any observations for the need of recalling the person on the ground that his evidence would be essential for the just decision of the case.

4. Prima-facie, this Court is of the opinion that the witnesses are recalled with a malafide intention of getting them declared hostile or influencing them to retract from the testimony already on record. It is thus, brought to the notice of the learned trial Court Judge that if at all, the witnesses re-called try to give any false evidence, then it would be open for the learned trial Court Judge to proceed under Section 387 of The Bharatiya Nyaya Sanhita, 2023.
5. Since the said observation was made by this Court, learned advocate for the applicant has sought permission to withdraw the matter. Thus on the prayer of withdrawal, the matter stands disposed of as withdrawn. However, it is made clear that the learned trial Court shall take into consideration the observations made hereinabove.

Sd/-

(GITA GOPI, J)

CAROLINE / SB-1 # 4

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CAROLINE ANTHONISWAMY(HC00212), Principal pvt Secretary, at High Court of Gujarat on 18/03/2026 18:16:26