

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous (Petition) No. 3169/2026

Smt Kalawati Devi W/o Begraj, Aged About 86 Years, R/o 13 B Block, Ward No.-18, Tehsil Raisinghnagar District Shri Ganganagar Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Pp
2. Vivek Kumar S/o Amar Singh, R/o V.p.o. Sukhchainpura, Tehsil- Raisinghnagar, At Present R/o Mohar Singh Chauk, Purani Aabadi, Shri Ganganagar Raj.

-----Respondents

For Petitioner(s)	: Mr. Daulat Singh Gharsana
For Respondent(s)	: Mr. Vikram Singh Rajpurohit, PP

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

05/05/2026

1. The present petition has been filed for quashing and setting aside the order dated 07.04.2026 passed by the learned ACJM, Raisinghnagar, District Sriganganagar passed in Criminal Complaint No.459/2025 arising out of FIR No.53/2021, whereby the application of the petitioner seeking exemption from personal appearance was dismissed.
2. Learned counsel for the petitioner argues that the learned trial court has gravely erred in placing reliance upon the videography and photographs produced in a pen drive, which have not been proved in accordance with the settled principles of law governing admissibility of electronic evidence. It is contended that in absence of proper certification and proof, such material could not have been read in evidence, yet the trial court has relied upon the same to conclude that the petitioner is capable of appearing

before the court. The said finding, it is urged, is perverse, based on inadmissible material, and therefore unsustainable in the eyes of law.

2.1 Learned counsel further argues that the learned trial court has failed to appreciate the true scope and ambit of the expression "compulsion" as envisaged under Article 20(3) of the Constitution of India. It is submitted that the protection against self-incrimination is not confined merely to physical force but extends to procedural coercion as well. In the present case, insistence upon the personal appearance of the petitioner, who is an 86-year-old ailing lady, despite the availability of alternative modes, amounts to compelling her to be a witness against herself. Such insistence, it is argued, results in violation of her fundamental right guaranteed under Article 20(3) of the Constitution and is therefore legally untenable.

2.2 Learned counsel further submits that petitioner on her own voluntary will, executed a Will in favour of his son and who later transferred the land in name of the grandsons of the petitioner. The petitioner has neither disputed the Will nor had any objection with regard to the subsequent transfer of land in favour of the grandsons, however, the son of the petitioner's daughter has initiated criminal proceedings just to harass the present petitioner who is a lady aged about 86 years.

2.3 Learned counsel also argues that as a matter of fact with similar set of allegation, earlier FIR was filed by the daughter of the petitioner wherein the police after thorough investigation have given final negative report.

3. Heard learned counsel for the petitioner.

4. Issue notice of the petition so also of stay application to the respondents.

5. Meanwhile, further proceedings in Criminal Complaint No.459/2025 pending before the learned ACJM, Raisinghnagar, District Sriganganagar, shall remain stayed.

(SUNIL BENIWAL),J

17-ajayS/-