

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

S.B. Criminal Miscellaneous (Petition) No. 3514/2026

Motilal S/o Sh. Harikishan Vyas, Aged About 50 Years, 21 Flat
No. 167, Chaupasni Housing Board, Jodhpur Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. Mahesh Kumar S/o Sh. Gopal Bohra, Shivpuri Phalodi,
Distirct Jodhpur Raj.

-----Respondents

For Petitioner(s) : Mr. Pradeep Sharma

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

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

04/05/2026

1. The present petition has been filed seeking quashing of the order dated 03.01.2026 (Annexure-1) passed by learned Additional Chief Judicial Magistrate No.2, Phalodi, District Jodhpur in Criminal Case No.869/2017, whereby the application filed by the petitioner under Section 311 of Cr.P.C. seeking to recall the witness for further cross-examination, was dismissed.

2. Learned counsel for the petitioner submits that one opportunity for cross-examination ought to be granted, as new counsel was engaged following the unfortunate demise of the earlier counsel in the year 2024 who had been representing the petitioner.

3. On a bare perusal of the impugned order dated 03.01.2026, it appears that arguments had already been concluded and the matter was posted for pronouncement of judgment on

07.01.2026. However, the matter was adjourned on 07.01.2026 and was again listed for pronouncement on 13.01.2026. As per learned counsel for the petitioner, the matter is even listed today for pronouncement of judgment.

4. Considering the fact that the arguments have already been concluded and that the earlier counsel for the petitioner unfortunately passed away in December 2024, whereas the present application came to be filed on 16.12.2025 (Annexure-4) i.e. after a lapse of around one year, this Court is of the firm opinion that the matter has already reached the stage of final adjudication and entertaining any application at this stage would unnecessarily prolong the trial. Moreover, no sufficient justification has been furnished to recall witness by the petitioner under Section 311 of Cr.P.C.

5. In view of the aforesaid discussion, no indulgence is warranted. Accordingly, the instant petition is **dismissed**.

6. Pending application(s), if any, to continue till the next date of hearing.

(SUNIL BENIWAL),J