

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 8439/2024

Rakesh Bagri S/o Lt. Premchand Bagri, R/o Sector No. 3, House No. 3/209, Housing Board, Beawar, Dist. Ajmer (Raj).

-----Petitioner

Versus

Shaitan Singh S/o Nathulalji, R/o Masuda Presently At Pratap Colony, Mewari Gate Bhar, Beawar, Dist. Ajmer.

-----Respondent

For Petitioner(s) : Mr.Amit Dadhich

For Respondent(s) :

JUSTICE ANOOP KUMAR DHAND

Order

08/05/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 13.08.2024, passed by the Court of Judicial Magistrate No.2, Beawar by which the application submitted by the petitioner under Section 65 of the Indian Evidence Act, 1872 (for short, "the Evidence Act") has been rejected.

2. Learned counsel for the petitioner submits that the original documents were not in possession of the petitioner, hence, under these circumstances, an application was submitted by the petitioner for permitting him to lead photocopies of the documents as secondary evidence. However, the said application has been rejected by the Court below by passing the order impugned. Hence, under these circumstances, the petitioner has approached this Court.

3. In the considered opinion of this Court, before filing an application under Section 65 of the Evidence Act, the petitioner is supposed to file an application under Section 66 of the Evidence Act. Unless and until an application under Section 66 of the Evidence Act is submitted, the application filed under Section 65 of the Evidence Act cannot be entertained.

4. Without looking into the order impugned, this Court deems it just and proper to dispose of the instant petition granting liberty to the petitioner to file an application under Section 66 of the Evidence Act. In case, such application is submitted by the petitioner within a period of three weeks from today, it is expected from the learned Magistrate to decide the same expeditiously as early as possible, not beyond the period of two months thereafter, strictly in accordance with, after providing due opportunity of hearing to both the sides.

5. Accordingly, the instant petition stands disposed of. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J