



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CRIMINAL WRIT PETITION NO. 1275 OF 2025

SHIVAJI BUWAJI GONDWALE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Ganesh J. Kore – Advocate for Petitioner
Mr. D.J. Patil – APP for Respondent, State
...

CORAM : SACHIN S. DESHMUKH, J.
DATE : 15.09.2025

PER COURT :

1. The petition raises challenge to the order rendered by the Judicial Magistrate First Class, Bhoom, Dist. Osmanabad, rejecting the application under Section 311 of Criminal Procedure Code presented by the petitioner seeking recall of witnesses for further cross-examination in R.C.C. No.30 of 2021.

2. During the course of the trial, the witnesses for the prosecution are examined and sufficient opportunity was extended to the petitioner to cross-examine the witnesses. The petitioner, however, chose not to cross-examine the witnesses at the relevant time and allowed examination of witnesses to conclude. It is thereafter the application was presented in order to fill up the lacuna. The learned Judicial Magistrate First Class, Bhoom, considering the fact that the witnesses are already examined on

23.01.2022 and cross-examined by the advocate for the accused, observed that these facts were well within the knowledge of the petitioner. Sufficient opportunity was already extended to confront with the relevant issue during cross-examination. However, as said hereinabove, the petitioner has chosen not to avail the same and now attempt is to cover up the lacuna. The learned Magistrate has considered these aspects and eventually declined to exercise discretion and same was noted to be not essential one.

3. Upon perusal of the record, it is evident that the petitioner had sufficient opportunity to cross-examine the prosecution witnesses at relevant point of time and allowed trial to proceed. By present application an attempt is made to fill up the lacuna, even perusal of the application unequivocally establishes that the applicant wants to fill up the lacuna, which cannot be permitted. Thus, the Magistrate has properly exercised discretion while rejecting the prayer for recalling of the witnesses. As such, no error is noted in the order under challenge. Resultantly, the petition is devoid of merit. As such, the same is hereby dismissed.

[SACHIN S. DESHMUKH]
JUDGE