



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1762 OF 2025

The State of Maharashtra
Through Police Inspector,
Kinwat Police Station,
Dist. Nanded

...PETITIONER

VERSUS

1. Jitendra Karbhari Dhonde,
Age : 41 Years, Occu : Service,
R/o. Station Road, Maliwad,
Ashti, Dist. Beed.
Now at Present Address, Kohinoor Nagar,
Gokunda, Tq. Kinwat, Dist. Nanded

2. XYZ

...RESPONDENTS
(Orig. Complainant)

Mr. K. S. Patil, APP for Respondent – State.

CORAM : ABHAY J. MANTRI, J.

DATE : DECEMBER 22, 2025

ORAL JUDGMENT :

1. Heard learned APP and perused the impugned order and record.
2. The petitioner has preferred this petition challenging the order dated 11th November 2025, passed by the learned Special Judge below Exhibit 79 in Special Case No.152 of 2023, thereby rejecting the application to permit it to recall PW-1, informant.

3. The learned APP vehemently contended that the examination-in-chief and part of the cross-examination were conducted on 03rd April 2025; however, thereafter the matter was adjourned, and the remaining cross-examination was conducted on 19th April 2025. Consequently, certain contradictory statements of the witness emerged during the course of the cross-examination.

4. The learned APP further submitted that, as per Section 348 of the Cr.P.C., the Court can issue a summons to material witnesses, and under Section 311 of the Cr. P.C., the Court has the power to recall or re-examine any person as a witness. He therefore submitted that the learned Special Judge failed to consider these aspects in their proper perspective and erred in rejecting the application. Accordingly, he urged the issuance of the notice to the respondents.

5. I have gone through the impugned order. It appears that in paragraph No. 4, the learned Judge has considered the prosecution's contentions and passed a reasoned order. The learned Judge has categorically held that *“re-examination of any witness is meant to clarify ambiguities and not to fill up lacunae. In the present case, the victim and her mother turned hostile and did not support the prosecution; therefore, the learned Judge held that it would not be proper to recall the witnesses to fill up the lacunae.”*

6. Similarly, it is observed that the matter was posted for recording the statement of the accused under Section 313 of Cr.P.C. and, therefore, the application was rejected.

7. Apart from that, the evidence of the mother of the victim was concluded on 19th April 2025, and the application was filed thereafter on 04th August 2025, i.e., after a period of four (04) months, when the matter was posted for recording the statement of the accused under Section 313 of the Cr.P.C.

8. It also appears from the petition that the petitioner has contended that, during the course of cross-examination, the victim and her mother disclosed new matters requiring explanation through re-examination. However, it appears that during cross-examination, the mother and the victim have turned hostile, and no new facts were disclosed. Therefore, I do not find any merit in the contention of the prosecution in that regard.

9. As a result, the petition, being bereft of merit, stands dismissed.

10. Inform the learned Trial Court accordingly.

(ABHAY J. MANTRI, J.)