

MHDH070000161996



Order passed Below Exh. 1 in Regular Criminal case No. 39/1996.
(passed on the date 09.03.2026)
(State Vs. Ajitsing Gyansing Tadavi and others)

This is the case relating to offence under Section 394, 34 of the Indian Penal Code against the accused persons.

2] Record of the case shows that accused was not traced in spite of repeated issuance of summons, warrants and even after resorting to due procedure for the appearance of the accused. Hence, my Ld. Predecessor Judge recorded the prosecution evidence against the accused as per Section 299 of the Code of Criminal Procedure, 1973.

3] Record shows that, on various dates witness summons issued. Vide Exh. 9 witness summons issued to prosecution witness but, prosecution was not able to secure their presence before the Court. In spite of repeated issuance of summons to prosecution witnesses apart from already examined two witnesses, no one turned up. My Ld. Predecessor Judge has already closed the evidence of prosecution vide order below Exh. 1 on the date 27.12.2021. However, in spite of that order, summons were issued to witnesses on the date 17.02.2026, 24.02.2026 and 02.03.2026. But, no one turned up.

4] **Scrutiny of Prosecution Witnesses : -**

Perused the testimony of all the prosecution witnesses. Prosecution has examined in toto 02 witnesses.

4.1] **Testimony of Panch witnesses :-**

P.W. 1 Rajesing Mohansing Rajput and P.W. 2 Govind Pundlik Shinde are the panch witnesses. Perused their testimonies vide Exh. 6 and 7 respectively. These witnesses has turned hostile. Hence, testimony of these witnesses is not helpful to the prosecution to prove the panchnama.

5] In the light of above mentioned scrutiny of prosecution witness, I come to conclusion that, I come to conclusion that the charge against the accused is **groundless**. Hence, I find no substance and sufficient material to continue the prosecution proceeding against the present accused.

6] Record shows that, cash amount and truck is seized is seized in the present case. The seized truck is released on interim custody. The cash amount is still unclaimed. As the accused are discharged from the present offence, it could not be said that the seized cash amount is of the informant as the prosecution was unable to prove that the seized cash amount belongs to informant. Moreover, accused have also not claimed that the seized cash amount belongs to them. Hence, it would be proper to credit this cash amount to the State after appeal period is over. Hence, I pass following order :-

Order

1. **Accused are discharged** from the present case as per **Section 239** of the Code of Criminal Procedure, 1973.
2. The standing N.B.W. issued against the accused is cancelled.
3. Proceeding in R.C.C. No. 39/1996 is hereby closed.
4. Muddemal truck is released on interim order of the Court. Said order is confirmed after appeal period is over. Muddemal cash amount worth Rs. 135/- and Rs. 1100/- i.e. total amount of Rs. 1235/- be credited to the State after appeal period is over

Order below Exh. 1 in
R.C.C. No. 39/1996.

5. Concerned clerk to send the copy of this order to the concerned police station as the standing N.B.W. against the accused is cancelled.
6. Muddemal clerk to take note of above order.

Shirpur.
Date : 09.03.2026.

(Smt. Pooja N. Kokate)
Judicial Magistrate First Class (Court No. 1)
Shirpur, Dist. Dhule.
JO Code-2489