

MHGA030004382018



**IN THE COURT OF ADD. CHIEF JUDICIAL MAGISTRATE,
GADCHIROLI**

(Presided over by Shri. S.B. Vijaykar)

R.C.C.No. 42/2018

**State of Maharashtra Through
P. S.O. Gadchiroli,**

... Prosecution

-Vs-

Suresh Charandas Gedam+1,

... Accused

**ORDER BELOW EXH.159
(Passed on 06.08.2026)**

This application has been filed by learned APP for issuance of summons to the investigating officer and witness no.7. The learned APP submitted that the evidences of these witnesses are necessary for the prosecution to prove the guilt of accused. Hence, prayed accordingly.

02] The accused have filed the say at Exh.161 and thereby strongly opposed the application. The learned counsel for the accused submitted that the additional reply given at Exh.162 be treated as reply given by accused no.2. The accused submitted that the prosecution has filed this application at the fag end of the trial, when the accused have tendered their final argument. Hence, prayed for rejection of the application. Heard to the learned counsel for both parties. I have perused the record. No doubt before tendering the argument by learned APP, the learned counsel for accused

have tendered their final argument. When case was posted for final argument on the part of learned APP, she moved this application and thereby prayed to issue summons to IO and witness no.7.

03] Section 311 of Cr.P.C. provides that the court may, at any stage of any inquiry, trial or other proceeding under Cr.P.C., summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

04] After reading this provision, it appears that this provision is divided into two parts. In first part, the discretion is vested with the court and in second part, it is mandatory on the court to issue summons to any person whose evidence is essential to the just decision of the case.

05] The learned APP in the application submitted that the evidence of IO and witness no.7 is essential to the just decision of the case. Now, question before me is that the evidence of IO and witness no.7 is essential to the just decision of the case.

06] I have perused the witness list of the prosecution. Witness no.7 is Ramsagar Urkude. His role in this case is that the accused had abducted the husband of one of the student whom the accused had dishonestly induced to make payment

for getting admission to their Nursing College.

07] This court has framed the charge against the accused for the offence punishable under section 363 of the Indian Penal Code, 1860. This means this witness is the key witness of the case. His evidence is material to show that the accused by using force compels, or by any deceitful means induces him to go from any place. So, his evidence is necessary or essential for the just decision of the case.

08] IO is the person who unfold the investigation and charge sheeted the accused. There are plethora of the judgments wherein it is held that non examination of the IO could be fatal to the prosecution. His evidence is material in this case. Thus, I came to the conclusion that evidence of these witnesses is essential for the just decision of the case. In such situation, second part of section 311 of Cr.P.C. mandated the court to issue summons to the witnesses whose evidence is essential for the just decision of the case. Hence, application Exh.159 is allowed and thereby summons be issued to witness no.7 Ramsagar N. Urkude and IO Praful Ramesh Wagh. It is directed to the prosecution to secure the presence of these witnesses as earliest possible as the case is more than five years old.

Gadchiroli.
Dt. 06-08-2026.

(S. B. Vijaykar)
Add. Chief Judicial Magistrate,
Gadchiroli.