



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 445 OF 2023

**DHANANJAY @ NANA GANGADHAR SHINGADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. V.D. Sapkal Senior Counsel
i/b. Mr. S.R. Sapkal and Mr. S.M. Avhad
APP for Respondent No. 1 : Mr. M.M. Nerlikar
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 11 JANUARY 2024

PER COURT (PER : SHAILESH P. BRAHME, J.) :

Heard both the sides finally.

2. The applicant is invoking jurisdiction under Section 482 of Code of Criminal Procedure, for quashment of First Information Report No. 288 of 2022 of Osmanabad City Police Station and Charge-sheet No. 116 of 2022, filed therein. The applicant is facing prosecution along with one Ravindra Sitaram Rimal for offence punishable under Sections 370, 370 A (2) read with 34 of Indian Penal Code and under Section 3, 4 and 5 of Immoral Trafficking Act.

3. It is alleged that Informant – Police Officer received secret information of prostitution den being run at hotel Bawarchi at Osmanabad. A raid was conducted by sending dummy customer and it was found that the place was being used for prostitution. The co-accused

Ravindra was found to be working as the Manager of the hotel who was present. The applicant is alleged to be the owner of the premises.

4. After registration of offence, investigation was conducted. Charge-sheet was filed on 17.09.2022.

5. Learned Senior Counsel Mr. V.D. Sapkal, for the applicant submits that there is no overt act alleged against the applicant in the complaint to attract the ingredients of the offence alleged against him. Only allegation against the applicant is that he is the owner of hotel Bawarchi. He invites our attention to registered lease deed executed on 01.07.2022, by the applicant in favour of Shrikant Hanumant Sable, letting out hotel Bawarchi for eleven months. It is submitted that the applicant was not concerned with the alleged prostitution. There is absence of knowledge.

6. Learned Senior Counsel for the applicant has also referred to the statements of the witnesses to show that there is no involvement of his client. Emphasis is laid on the statement of Shrikant Hanumant Sable to show that from July 2022, after conducting raid, the witness had surrendered the hotel.

7. Learned APP vehemently opposes submissions of the applicant. It is submitted that the lease agreement produced on record is an eyewash. Applicant is involved in operating the den. The statement of the witnesses Shrikant, his wife Lata and sister Madhvi, show

complicity of the applicant. He would further submit that no case is made out for the quashment. A full fledged trial is required to reveal involvement of the applicant.

8. With the assistance of the learned counsels we have gone through the papers of the investigation. On 16.09.2022, a raid was conducted at hotel Bawarchi. Co-accused was found to be at the counter of the hotel and managing the affairs. One lady Sunitadevi Gupta was found to be present at the relevant spot being victim of prostitution. The First Information Report only refers that the applicant is the owner of the hotel.

9. However, further investigation especially the statements of the witnesses disclose involvement of the applicant. It is not disputed that applicant is the owner of the building. Lease agreement was executed for eleven months letting out hotel to one of the witnesses namely Shrikant Sable. The terms of the agreement are articulated to shift responsibility of running the lodge on the lessee.

10. The statement of Shrikant reveals that he is a daily wager doing labour work. He has stated to have taken hotel Bawarchi on rent from June 2022 to the extent of Permit Room and the dinning. He disowned any activity being conducted on the upper floor of the lodge. He has stated to have run Beer Bar and the hotel for one month from June 2022. The raid is conducted on 16.09.2021. The statements of Lata

W/o. Shrikant and Madhvi sister of Shrikant indicate that Shrikant was daily wager and they were not knowing that he was running hotel Bawarchi.

11. At this stage of the proceeding, it is difficult to draw any inference that the applicant had let out hotel and was not concerned with the activities being conducted in it. The statements of witnesses Ramhari, Vijay, Sandeep, Pradeep and Priya corroborate the prosecution's case. The material on record shows that the prostitution which is alleged against the accused could not have been possible without his active knowledge and his involvement. It is too hazy to thwart the prosecution to the extent of applicant under Section 482 of Cr.p.c.

12. We find that there is material against the applicant to proceed against him for the offence alleged. No case is made out for quashment. The application is rejected.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]