



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

CRIMINAL REVISION APPLICATION NO. 369 OF 2025

Fahimoddin Fayjoddin Sayyed
Age: 53 years, Occu.: Business,
R/o. Near Laal Godown,
Baghwan Galli, Latur,
Tq. Latur, Dist.Latur.Applicant
(Accused No.2 in FIR/chargesheet)

Versus

- 1] The State of Maharashtra
Through the Officer-in-Charge,
Vivekanand Chowk Police Station,
Latur, Tq. and Dist.Latur.
- 2] The Superintendent of Police, Latur.
- 3] XYZRespondents

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Advocate for Applicant : Mr. Hashmi Mir Ubaidali Mir Sajidali
APP for Respondent nos.1 & 2 : Mr.N.D.Raje

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 01 DECEMBER, 2025
PRONOUNCED ON : 02 DECEMBER, 2025**

JUDGMENT :

1. Revision petitioner, who is arraigned as accused no.2, in crime no.0642 registered at Vivekanand Chowk Police Station, Latur, for offence under Sections 376(2)(n), 377 of the Indian Penal Code (IPC) and under Section 67A of the Information Technology Act (IT Act), is hereby questioning order dated 14-10-2025 passed in

Sessions Case No.61 of 2024 by which application under Section 250 of the BNNS Act (Old Section 227 of the Cr.P.C.) has been rejected.

2. In nutshell, informant XYZ lodged report alleging that one Maulana Ismail Karim Shaikh (accused no.1) used to forcibly become intimate with her. After her marriage, she reported it to her husband and it was decided to videograph the acts of accused no.1. That, on 01-11-2023, when accused no.1 had forcible unnatural sexual intercourse with her, the episode was videographed in the mobile of her husband. That, later on, her husband approached present applicant (accused no.2), who is acquaintance of husband, to seek justice and the obscene act captured in the mobile of husband was duly forwarded to applicant (accused no.2) and it is the allegation that he made the said video clip viral and therefore, on getting knowledge to that extent, informant XYZ lodged above report against both the accused and on investigation, both accused were chargesheeted. Present applicant was arraigned as accused no.2.

3. Present applicant, accused no.2 invoked provisions of Section 250 of the BNNS Act, seeking discharge primarily on the grounds that he is falsely implicated. That, main allegations are against accused no.1. That, he has no concern with alleged act committed by

accused no.1. That, he was merely called to do justice. That, he did not forward any obscene material to anyone nor there is any evidence to that extent and therefore, according to him, provisions under Section 67A of the IT Act, are misplaced against him. That entire chargesheet carries not material against him and therefore, he sought discharge.

4. Learned trial Court, who is seized with sessions case, after hearing application exh.16 for discharge, heard prosecution and by order dated 14-10-2025, rejected the same. Hence, present revision questioning the said order.

5. Learned Counsel for applicant would point out that there is false implication. That, he has no contact or relation or acquaintance with informant. That, she has alleged violation of her person and exploitation by accused no.1. That, act of videography was also at the behest of informant herself and her husband, and present applicant had no role. That, even the mobile in which videography was done did not belong to him and rather it belongs to husband of informant. That, there is nothing to show that present applicant sent any obscene material to others or made it viral and therefore, when necessary ingredients for attracting 67A of the IT Act are not

available in entire material, he urges to allow the revision, by setting aside the impugned order and discharging him from charge under Section 67A of the IT Act.

6. In answer to above, learned APP pointed out that, there is overwhelming evidence regarding involvement of present applicant and making obscene material viral through his mobile. That, said mobile is seized and it is sent for forensic analysis and its report is awaited. According to learned APP, investigation revealed and disclosed clear role of accused no.2 and therefore, he too needs to face trial along with main accused no.1. Learned APP supports the impugned order and urges to reject the application.

7. Before advertng to merits of the case, it would be just and proper to spell out settled legal position while considering discharge application under Sections 227 and 228 of the Cr.P.C. It is fairly settled position that, at such stage, Court dealing with such application is merely expected to determine existence of *prima facie* material for proceeding to frame charge and make accused persons face trial. Material gathered during investigation is expected to be sifted with limited purpose to find out whether there are sufficient grounds to proceed against accused. Neither in-depth analysis nor

meticulous analysis of evidence is expected at such stage. Thus, the only duty of Court is to ascertain whether there is *prima facie* material suggesting existence of essential ingredients for the offences, which are alleged to be committed.

Above position has been time and again reiterated since the cases of State of Bihar v/s Ramesh Singh (1977) 4 SCC 39; Union of India v. Prafulla Kumar Samal and Another (1979) 3 SCC 4, and a decade back in the cases of Sajjan Kumar v. Central Bureau of Investigation (2010) 9 SCC 368; Amit Kapoor v. Ramesh Chander and another (2012) 9 SCC 460; State of Tamil Nadu (By Inspector of Police Vigilance and Anti-Corruption) v. N.Suresh Rajan and Others. (2014) 11 SCC 709; Asim Shariff v. National Investigation Agency (2019) 7 SCC 148; and Ram Prakash Chadha v. State of Uttar Pradesh (2024) 10 SCC 651.

8. Perused the record. FIR dated 04-11-2023 is at the instance of XYZ and according to her, two months back, she was married to one Shakil Shaikh. She further reported that, at that time, on account of her father performing second marriage in 2014, one Maulana Ismail Karim Shaikh (accused no.1) made her mother marry with Aayub Alikhan Lashkare. Her step father started troubling her and

therefore, she went to stay at Hyderabad and in 2018, she came back to reside with her mother. Said Maulana Ismail Karim Shaikh then performed her marriage with Aarif. However, her in-laws ill treated her and therefore, she came back to reside with her mother and took divorce in 21-01-2022 from Aarif and since then she was residing with her mother only.

9. According to her, in April 2022, on the pretext of taking her to Madrasa, her modesty was outraged by accused Maulana Ismail and thereafter, he used to take her out and maintained physical relations with her and later on performed her second marriage with Shakil Shaikh. She informed Shakil Shaikh about conduct of Maulana Ismail Karim Shaikh and therefore, she and her husband decided to shoot video of acts of Maulana Ismail Karim Shaikh. After switching on the video of the mobile, which was kept in the house, her husband went out i.e. when Maulana Ismail was to come and it alleged from the said videograph that said Maulana Ismail against her wish had unnatural sex with her. Later on when she and her husband watched the video shooting and they called their acquaintance Fahimoddin Syyed (applicant) and consulted him as to what should be done, it is reported that applicant assured to help them and got the video clip

transferred in his mobile and he further made it viral everywhere. On getting knowledge to that extent, she lodged report against both, Maulana Ismail Karim Shaik as well as present applicant.

10. The grounds on which discharge is sought are reproduced in aforesaid paragraph. After hearing submissions of learned APP, here it is emerging that the mobile in which videography was done has been seized and sent for forensic analysis. Its report is awaited. Statement of husband of informant is also on record. Therefore, under such circumstances, it does not lie in the mouth of applicant that there is no material to attract offence under Section 67A of the IT Act.

11. For above reasons, no case being made out for discharge, this Court finds no reason to interfere. Hence, following order :

ORDER

Criminal Revision Application is rejected.

(ABHAY S. WAGHWASE)
JUDGE