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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 393 OF 2025

Sanjay Shambhunath Mishra ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr. Aditya Sharma a/w Ms. Archana Shukla i/b Ms. Sudha Dwivedi, Advocates for the Applicant.

Ms. Mahalakshmi Ganpathy, APP for Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 17th OCTOBER, 2025.

P.C. :

1. Heard Mr. Aditya Sharma, learned Advocate for the Applicant and Ms. Mahalakshmi Ganpathy, learned APP for the State.

2. By the present Application, filed under Section 397 of the Code of Criminal Procedure, the Applicant (Accused No.2), has assailed the order dated 3rd January, 2025 passed by the Additional Sessions Judge, City Civil & Sessions Court at Greater Mumbai, on Exhibit-3 in Sessions Case No. 99 of 2023, by which the request for

discharge made by the Applicant under Section 227 of the Code of Criminal Procedure, 1973, was rejected (“impugned order”).

3. On 19th June, 2009, Amboli Police Station registered Crime No. 213 of 2009 for the offences punishable under Section 420, 465, 467, 468, 471 and 120 (B) read with Section 34 of Indian Penal Code, 1860. Said Crime was subsequently transferred to E. O. W. Unit IV, Mumbai and registered as C.R. No. 34/2009. There are eight Accused in the said crime. Applicant is Accused No.2.

4. Case of the prosecution is that the Accused No.1, 4, 6 and 7 in the crime, who are Directors of M/s Rock Consultancy Pvt. Ltd., issued an advertisement in the newspaper claiming to have started maritime training and various courses in association with foreign institute of Singapore which is engaged in imparting maritime training courses. Said Accused claimed to be authorized by Singapore Government and the Directorate General of Shipping Corporation for imparting the said Training Course. Accused involved in the crime represented and assured 100% job guarantee on Board Ship. On the basis of the said advertisement, more than

165 aspiring students, started visiting the office of the Accused, for counseling session. Applicant (Accused No.2) is one of the counselor who explained to the students the training facility as also the admission process and the need to make deposit for enrolling themselves. Students were made to pay Rs.4 lakhs for securing the admission. Students securing admission were instructed to bring in two other students to enroll in the said course. Said students were duped in the said process.

5. Applicant filed Application at Exhibit-3 seeking discharge on the ground that the Sections charged were not applicable / attracted against the Applicant; that there is no evidence in the charge-sheet to show the involvement of the Applicant in the crime; and that the Applicant has been falsely implicated in the said crime.

6. By the impugned order the Additional Sessions Judge dismissed the Application. Reasons for dismissal are recorded in paragraph Nos. 10, 11 and 12 of the impugned order.

7. Mr. Aditya Sharma, learned Advocate for the Applicant, submits that the Applicant is not named in the charge-sheet. He by

referring to the statement of the student/s, submit that they do not assign any role to the Applicant in the crime, however he submits that in the penultimate para of their statement/s, students have named the Applicant. He submits that the role of the Applicant in the crime is that of a counsellor, who took counselling sessions with the students. He submits that similar other counsellors have not been arrayed as Accused and they are shown as witnesses. He submits that there is no material on record to show any amount being received by the Applicant. He submits that the Additional Sessions Judge has failed to consider the same and thereby erred in passing the impugned order.

8. Ms. Mahalakshmi Ganpathy, learned APP for the State, submits that the material on record clearly discloses the involvement and role of the Applicant in the crime. She submits that the Applicant who claims to be a counsellor, was actively involved in misleading and inducing the students to part with money. She submits that the Applicant cannot be permitted to contend that he being a counsellor should be exonerated, as the Applicant owed a duty to the students to make a proper representations. She submits that the Applicant cannot plead

ignorance about the status of the institute, which institute he was representing before the students. She submits that the material on record is more than sufficient to frame charge against the Applicant.

9. Perused the records with the assistance of the learned Advocates. From the rival contentions the point that false for determination is whether or not a prima facie case has been made out from the material disclosing grave suspicion against the Accused for framing charge?

10. Records indicate that the Applicant is named in the FIR. As per the case of the prosecution the Applicant as a counsellor and/or in the capacity of a counsellor, by his skill induced students to take admission by motivating such students to join the institute. Students parted amounts for securing admission on the basis of the counselling sessions. Applicant was bound to be aware and/or bound to ascertain as to whether the institute which he was representing and promoting amongst students, was genuine, whether such institute had the required affiliation as required in

terms of law; whether the institute the Applicant, was representing as a counsellor was affiliated to the Singapore Government or the Directorate General of Shipping Corporation, which was the representation made in the advertisement. Statements of the students recorded by the Investigation agency, indicate the role / involvement of the Applicant in the present crime. Prima facie Applicant has taken advantage of innocent students and misled them. Material on record discloses grave suspicion against the Applicant for framing charge against the Applicant and proceeding with trial. The material on record discloses the existence of all the ingredients constituting the offence alleged against the Applicant.

11. At the stage of considering an Application under Section 227 of Cr. P. C. the Court cannot analysis or dissect the evidence of prosecution and defence or the possible cross-examination of the defence. Whether there is a ground for presuming that the offence has been committed is to be considered and not a ground for convicting the Accused. Even strong suspicion found on material which leads the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence would

justify the framing of charge. The Court is not accepted to go deep into the probative value of the material on record. The law does not permit a roving inquiry at the stage of framing of charge, much less a mini trial at this stage.

12. The learned Additional Sessions Judge has meticulously dealt and considered the material on record against the Applicant and has arrived at a prima facie conclusion that no case was made out by the Applicant for seeking discharge. The scope of interference and exercise of jurisdiction under Section 397 of Cr. P. C. is extremely limited. It is trite law that powers under Section 397 should be exercised very sparingly and only where the decision under challenge is grossly erroneous, or there is non-compliance of the provisions of law, or the finding recorded by the trial Court is based on no evidence, or material evidence is ignored or judicial discretion is exercised arbitrarily or perversely by framing of charge (see K. Ravi Vs. State of Tamil Nadu & Anr.¹) Mr. Aditya Sharma was unable to point out any perversity or palpable error in the impugned order to seek indulgence of this Court in its revisionary jurisdiction.

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13. Applicant at Exhibit – 3 in Session Case No. 99 of 2023, filed by the Applicant before the Trial Court was devoid of merits. The impugned order is a well-reasoned order, warranting no interference.

14. The Revision Application is without merits as such dismissed. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)