IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1083 OF 2023

Vijay Govindrao Phulare

VERSUS

1.The State of Maharashtra
2. XYZ

Mr. Shaikh Ashraf Patel, Advocate for Applicant
Mr. S. P. Joshi, APP for respondent-state
Ms. Shilpa D. Magre h/f Ms. Pallavi Gawande, Advocate for Respondent No. 2 (Appointed)

CORAM : R. M. JOSHI, J.
DATE : 22nd OCTOBER, 2026

PER COURT :-

1. By way of the present application filed under Section 482 of the Code of Criminal Procedure, 1973, applicant seeks quashment charge-sheet bearing Crime No. 179 of 2022 dated 27.11.2022 filed in connection with First Information Report bearing Crime No. 332 of 2022 dated 27.09.2022 registered at Mukundwadi Police Station, Aurangabad for the offences punishable under sections 363, 366, 366(A), 376(2)(N) and 354(D) of Indian Penal Code, section 3, 4, 5, 6, 11, 12, 19, and 21 of Protection of Children from Sexual Offences Act, 2012 and Section 9 of The Prohibition of Child Marriage Act, 2006, so also quashment of

impugned order passed by learned Sessions Court, Aurangabad dated 01.12.2022 taking cognizance of the matter and issuance of summons against the present applicant in Special Case No. 368 of 2022.

2. The First Information report indicates that the informant reported that her minor daughter/victim, aged 16 years and 5 months, was studying in the 12th standard. The victim was missing since 26.09.2022 at around 04:00 PM,without informing anyone. It is contended that upon searching among relatives and friends to no avail, the mother lodged the FIR under suspicion that an unknown person had kidnapped her minor daughter for unknown reasons. Therefore the informant registered the FIR. Upon investigation the charge-sheet came to be filed on 27.11.2022 bearing crime no. 179 of 2022. Additionally, the statement of the victim recorded on 30.09.2022 under Section 161 of the Cr.P.C. revealed that victim and co-accused were in a love relationship for over a year. On 26.09.2022, the victim voluntarily accompanied co-accused on his motorcycle to Vaijapur, where they solemnized a marriage ceremony in front of a closed temple on 28.09.2022 after purchasing a Mangalsutra, toe rings, and kumkum. It is alleged that between 26.09.2022 to 30.09.2022, the victim and co-accused had a physical relationship at a hotel and in a rented room. On 30.09.2022, the victim along with the co-accused was taken into

custody from Vaijapur by the victim's father and police authorities. The present applicant was implicated as Accused No. 3 solely on the allegation that he gave his room on rent to the co-accused.

3. Learned Counsel for the applicant submitted that there is no evidence to indicate that the applicant aided or abetted the offence committed by the co-accused. It is submitted that the present applicant was not present at the building on the alleged date when co-accused and the victim rented the room. The applicant is the owner of the premises which were let out to the co-accused for a specified period. He contended that there is no evidence to connect the applicant with the crime in question. Therefore, he submitted that continuing the criminal proceedings would amount to gross abuse of the process of law.

4. Per contra, learned APP and Counsel for the Respondent no. 2 strongly opposed granting any relief to the present applicant. Learned APP submitted that it was the duty of the present applicant to inform the concerned Police Station about letting out the premises. It was contended that by providing accommodation without prior verification, the present applicant aided and facilitated the commission of grave offences. They further submitted that whether the applicant had knowledge of the crime is a matter of trial cannot be decided at this stage.

5. At the outset, it needs to be recorded that it is not the case of prosecution that applicant had any acquaintance or connection with the co-accused/prime accused. Applicant is also not said to have abetted the crime by extending any conscious help to the accused. Perusal of the documents placed on record shows that the allegations against the present applicant are general and omnibus that in the premises belonging to the applicant accused stayed. The statement of witness Archana Sunil Bagul shows that the present applicant was not present at the time when the room was given on rent to the co-accused. The contention that renting out a room to the co-accused, even for a limited period, constitutes an offence does not find support in the charge-sheet. In any case, even if any such offence under the Maharashtra Rent Control Act, 1999 is alleged to have been committed, it would be a non-cognizable offence, which could not have been investigated by the police against the present applicant. Furthermore, there is absolutely no evidence to indicate that the petitioner abetted the commission of the offences of kidnapping and rape by the co-accused. In the judgment of the Hon'ble Supreme Court in case of ***State of Haryana v. Chh. Bhajan Lal*** (1992) (cri) 426, when there is no *prima facie* evidence to connect the applicant with the alleged offences, the continuation of prosecution amounts to a sheer abuse of the process of the Court.

6. In view of the above application stands allowed in terms of prayer clauses C and C-2.

7. The fees of the appointed counsel are quantified at Rs. 10,000/-, which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

B. S. Joshi