IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

47 CRIMINAL APPLICATION NO. 639 OF 2020

Dhirendra S/o. Dattatray Puri
VERSUS
The State Of Maharashtra And Anr

Mr. Abhishek Kulkarni, Advocate for Applicant (VC)
Mrs. P. J. Bharad, APP for Respondents

CORAM : R.M. JOSHI, J
DATE : AUGUST 31, 2026

P. C. :

1. This Application filed under Section 482 of the Code of Criminal Procedure seeks quashment of the FIR bearing Crime No. 73/2020 registered with City Chowk Police Station, District Aurangabad for the offences punishable under Sections 354-D, 34 of the Indian Penal Code and Sections 67 of the Information and Technology Act, 2000 and order of cognizance dated 17/02/2022 passed by the learned Judicial Magistrate First Class, Aurangabad in RCC no. 914/2020 and subsequent charge-sheet.

2. It is a case of prosecution that the informant lodged First Information Report Crime No. 0073/2020 on 11.02.2020 against the present applicant and co-accused, Yogesh Gulabrao Ban who is a relative of the present applicant. The allegation in First Information Report is that co-accused sent photograph, threatening messages and audio recording of conversation between the informant and the Applicant to the informant's

relative i.e. Puja Manoj Puri, on her WhatsApp, along with obscene messages about the informant. Based on these allegations, the present FIR was registered against the present Applicant and co-accused Yogesh Gulabrao Ban.

3. Learned Counsel for the Applicant drew attention of the Court to the first information report, which according to him, indicates that there is no collusion alleged against present Applicant and co-accused in committing crime in question. According to him, FIR only attributes against co-accused of publishing photographs and the conversation between the present Applicant and Informant on WhatsApp group. It contended that the applicant cannot be held responsible for the alleged crime merely based on assumptions or his family relation with the co-accused. The entire record shows that only the co-accused sent the messages, and there is no evidence that the applicant planned, helped, or took part in sharing them and Therefore, continuing the criminal proceedings against the applicant would be an abuse of the process of law. He is submitted that in absence of any allegation against the Applicant and also in view of the fact that when there is no evidence collected during the course of investigation indicating involvement of the Applicant in this crime, the proceedings qua this Applicant deserves to be quashed. He relied upon the Judgment of the Hon'ble Supreme Court ***Bhajan Lal vs State of Haryana (1992) SCC (Cri)***

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4. Learned APP and learned Counsel for the Informant opposed the Application. It is contended that considering the allegations in the FIR, the collusion between the Applicant and co-accused can be assumed. They also referred to the statements recorded during the course of investigation in order to support their submissions, particularly that of witness Puja Manoj Puri, who stated that co-accused Yogesh Ban sent defamatory audio clips of present applicant and informant, photographs, and threatening messages through WhatsApp against the informant. They further submitted that, since the subject audio clip was confidential exchange between the present applicant and the informant, the same could not have been circulated by the co-accused without the active connivance and facilitation of the applicant.

5. Perusal of the FIR, so also the statements of the witnesses, does not indicate any attribution of collusion between the present Applicant and the co-accused. The evidence does not show any offence having been committed by the present Applicant. The offence under Section 67 of the Information Technology Act involves transmitting or publishing obscene electronic material, whereas the record shows that the messages were sent solely from the mobile device of the co-accused, with no evidence linking the Applicant to the transmission.Common intention cannot be inferred

solely from the fact that the applicant is related to the co-accused or that his voice features in the recorded conversation. As the overt acts are solely attributed to the co-accused, continuing the criminal proceedings against the Applicant would be an abuse of the process of law, squarely covered by the principles in *case of* ***Bhajan Lal*** (supra), the Applicant cannot be forced to undergo the criminal proceedings.

6. In view of above, Application stands allowed in terms of prayer clauses 'C' and 'C-1'.

(R. M. JOSHI, J.)

Malani