

**Reg. Cri.Case NO. 57/2001****(State of Maharashtra vs. Shashikant etc.)**

Read the application and say filed on it. Heard the learned counsel for both side. Accused No.49 along with other accused persons are charge sheeted for the offences punishable under sections 292 and 293 read with 34 of the Indian Penal Code, 1860. Its discharge application on the part of accused No.49.

02.In short, the prosecution case is that, on 29.01.2001, during a raid carried by the Police Inspector and informant Kiran Namdev Avchat at the Friend's Video Centre, Parvati Talkies at Kolhapur, he found that, accused Nos.1 and 2 are involved in exhibiting blue films with the help of CD player and television. Other accused persons including applicant/accused No.49 are alleged to be the spectators and watching the blue film thereat.

03.Admittedly, except watching the blue films arranged by accused Nos.1 and 2, or being spectator thereof, other accused persons including accused No.49 do not have any other role or any role attributed to them in the light of sections 292 and 293 of the Indian Penal Code.

04.Section 292 of the Indian Penal Code deals with sale, distribution, letting on hire, public exhibition, putting in any manner into circulation or in possession for the aforesaid purpose any obscene book, pamplate, paper drawing, painting, representation or figure or any other obscene object whatsoever. It also involves import, export and conveying of obscene object for the aforesaid

purpose. It also includes receiving profit from the same and advertising the same. Section 293 of the said Code also deals with sale, letting on hire, distribution, exhibition and circulation of obscene object to any person under the age of 20 years.

05. Here the role attributed to accused No.49 is only that of spectator or viewer and nothing else as contemplated in sections 292 and 293 of the Indian Penal Code. In the case of **Dr. B. Rosaiah vs. State of A.P. (1991) CRI.L.J. 189(A.P.), the Andhra Pradesh High Court** observed that, mere spectator to the exhibition of a blue film without any further complicity cannot be taken to be amount to abetment of the main offence. Here it is clear prosecution case from the charge sheet that, accused No.49 was just spectator or viewer of the blue film arranged by accused Nos.1 and 2. There is no allegation against him that, he was any way involved in exhibiting the show of blue film. Then, I do not find prima-facie that, there are grounds to frame charge against accused No.49 for the offences punishable under sections 292 and 293 of the Indian Penal Code. The application is liable to be allowed, and accused No.49 is entitled to be discharged from the said offences. In result, I pass the following order,

ORDER

1. The application(Exh.60) is allowed.
2. Accused No.49 is hereby discharged from the offences punishable under sections 292 and 293 as per section 239 of the Code of Criminal Procedure, 1973.

3. Bail bonds of accused No.49 are hereby cancelled and he is set at liberty.

Date 27.01.2026

(M. M. Gadiya)
Chief Judicial Magistrate,
Kolhapur.