

**ORDER BELOW EXH. 01 IN****Reg. Cri.Case NO. 57/2001****(State of Maharashtra vs. Shashikant etc.)**

Perused the charge sheet. Heard the learned APP. Accused Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 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. Accused Nos.3, 4, 8 to 10, 15, 19, 22, 26, 27, 29, 30, 33, 37, 38, 41 to 43, 45, 49, and 52 are already discharged.

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, absconding accused Nos.1 and 2 are involved in exhibiting blue films with the help of CD player and television. Other accused persons including accused Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 are alleged to be the spectators and watching the blue film thereat.

03.Admittedly, except watching the blue films arranged by absconding accused Nos.1 and 2, or being spectators thereof, other accused persons including accused Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 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 in the charge-sheet.

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, pamphlet, 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 Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 is only that of spectators or viewers 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 Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 were just spectators or viewers of the blue film arranged by accused Nos.1 and 2. There is no allegation against them that, they were 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 Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 for the offences punishable under sections 292 and 293 of the Indian Penal Code. They are liable to be discharged from the said

offences. In result, I pass the following order,

ORDER

1. Accused Nos.5 to 7, 11 to 14, 16 to 18, 20, 21, 23 to 25, 28, 31, 32, 34 to 36, 39, 40, 46 to 48, 50, 51, 53 and 54 are hereby discharged from the offences punishable under sections 292 and 293 as per section 239 of the Code of Criminal Procedure, 1973.
2. Their bail bonds, if any, are hereby cancelled, and they are set at liberty.
3. The charge would be framed against absconding accused Nos.1 and 2 alone on their appearance. Issue standing N.B.W. against accused Nos.1 and 2.
4. Evidence against accused Nos.1 and 2 be recorded as per section 299 of the Code of Criminal Procedure, 1973.

Date 27.01.2026

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