

IN THE HIGH COURT OF BOMBAY AT GOA.
CRIMINAL WRIT PETITION NO.23 OF 2017.

Mr. Savio R. D'Souza,
S/o. Roney D'souza,
35 years, business,
R/o. H. No.179,
Paliem Ucassaim,
Bardez-Goa.

...Petitioner.

V/s

1. The Police Inspector,
Crime Branch, Ribander,
Ribander, Tiswadi-Goa.
2. Public Prosecutor,
High Court,
Panaji-Goa.

...Respondents.

Coram:-ANOOP V. MOHTA &
NUTAN D. SARDESSAI, JJ.

Date:- 16th March, 2017.

JUDGMENT (Per Nutan D. Sardesai, J)

Rule. Heard forthwith with the consent of the parties.

Shri M. Amonkar, learned Additional Public Prosecutor waives notice on behalf of the respondents.

2. Shri K. Kerkar, learned Advocate for the petitioner submitted that there was no material prima facie on record to continue the proceedings against the petitioner and therefore,

it was a fit case to quash the FIR and the Chargesheet filed against him before the Court of the Additional Sessions Judge, North Goa, Mapusa. Shri M. Amonkar, learned Additional Public Prosecutor on behalf of the respondents conceded in fairness that barring the information initially received which led to the raid, there was prima facie no material on record to even remotely connect the petitioner with the crime and therefore, relented that it was a fit case to quash the chargesheet against the petitioner.

3. The petitioner carved a case briefly that the respondent no.1 acting on the basis of the reliable information had on 9.8.2014 conducted a raid on the massage parlour run under the name and style as "Venus & Mars Salon-Spa Body Care" located on the first floor, Morod Mapusa on the premise that the girls engaged therein were carrying on prostitution in the spa by way of cross massage. Besides the owner cum manager of the spa alongwith one Raj, Abishek and Savio were earning money out of prostitution. A raid was accordingly conducted after a decoy customer was sent in to lay a trap to book a case under the provisions of Immortal Traffic (Prevention) Act, 1956 ("ITP Act" for short) and

thereafter several persons were placed under arrest. The case of the petitioner was that the respondent no.1 had carried out a biased investigation and filed a chargesheet against him and arraigned him as the accused no.8 in the said case without prima facie evidence to justify his involvement in the Crime. Thereafter, the learned Judicial Magistrate First Class, Mapusa took cognizance of the offence punishable under Sections 3, 4, 5 of ITP Act and Section 370 IPC and issued summons to him. The said offence was not at all attracted and besides the petitioner was not named in the FIR as an accused and was subsequently added as an accused with a view to foist a false case against him.

4. We have considered the contentions of Shri K. Kerkar learned Advocate for the petitioner and Shri M. Amonkar, learned Additional Public Prosecutor on behalf of the respondents and besides perused the contents of the chargesheet alongwith the accompanying statements. A cursory perusal thereof reveals that five persons were detained in the course of the said raid which however did not include the petitioner herein. The statements of the victims too make a reference to customers who were found at the

relevant time of the raid but there is not a word or whisper on the presence of the petitioner except for a stray statement by the Investigating Officer that apart from six named persons, who were detained in the course of raid, one Raj Mishra, Abhishek Mishra and one Savio, full name not known too were involved in the said offence without in any manner indicating the role played by them or any of them. The name of the petitioner does not appear even in the list of names revealed at random either in the complaint or the accompanying records of the chargesheet and therefore as rightly submitted by Shri Kerkar, learned Advocate for the petitioner, there is no reason why the petitioner should be made to face the trauma of a full drawn trial before the concerned Court.

5. In the result, no purpose whatsoever would be attained by continuance of this proceedings against the petitioner and therefore we pass the following:-

ORDER

- (i) Petition is allowed and the chargesheet dated 31.12.2014 in the Criminal Case no.77/2016 pending on the file of the Additional Sessions Judge, North Goa, Mapusa,/ is quashed and set **as against the petitioner**

aside.

- (ii) Rule is made absolute.
- (iii) Petition stands disposed off accordingly with no order as to costs.

NUTAN D. SARDESSAI, J.
vn*

ANOOP V. MOHTA, J.