

prostitution.

4. The learned counsel for the petitioner submitted that the petitioner is a female of 49 years. She is partner of one Kunal Subhash Verma and the premises stands in the name of partnership. The petitioner has invested Rs. 45 lakhs by purchasing the shares of Mrs. Anuradha, who was the wife of one Excise Commissioner, in the property believing that this SPA is a lucrative business and she had no idea that this is a massage centre where prostitution is going on. The learned counsel submitted that the petitioner is innocent and she has no role in the business of prostitution if run in the said SPA. In support of his submissions, the learned counsel relied on following decisions:

(i) Judgment of Hon'ble Supreme Court in the case of **State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.**

(ii) Judgment of the Single Judge of Kerala High Court in the case of **T. Jacob vs. State of Kerala**, reported in AIR 1971 Ker 166 on the point of woman panch.

(iii) Judgment of Single Judge of Punjab & Haryana

High Court in the case of **Harnam Singh and Asa Singh**, reported in AIR 1964 P & H 436.

(iv) Judgment of the Hon'ble Supreme Court in the case of **Sham Sunder & Ors. vs. State of Haryana**, reported in AIR 1989 SC 1982 on the point of criminal liability on the accused.

5. Learned APP opposed this Petition and relied on the FIR and the Agreement of partnership between the petitioner/accused and the main accused. He submitted that this shows that the petitioner/accused had knowledge about the illegal activities conducted in the name of Spa and she continued to earn her livelihood from prostitution. He relied on the statement of the witnesses. He submitted that this is not a case for quashing of FIR.

6. In the landmark case of **State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors. (supra)**, the detailed guidelines in respect of use of powers under section 482 of Cr. P.C. or the exercise of extraordinary power under Article 226 are laid down.

7. In the case of **T. Jacob** (*supra*), the application for discharge was rejected by the trial Court against which the Criminal Revision Petition was filed. While allowing the said Petition, the Court has taken into account the evidence before the Court and has stated that in the raid, the provisions of Section 15(1) of Suppression of Immoral Traffic in Women and Girls Act, 1956 is to be complied and therefore, at least one woman witness of the locality to attend and witness the search is to be called. This point will be considered at the time of discharge or trial.

8. In the case of **Harnam Singh and Asa Singh** (*supra*), the Petition was against the conviction

9. In the case of **Sham Sunder & Ors.** (*supra*), it was under Essential Commodities Act where the Judge has expressed that the accused should not be made liable to prove that offence took place without any knowledge and he exercised all due diligence to prevent such offence.

10. We have considered the ratio laid down in these rulings and they cannot be applied at the stage of quashing under section

482 of Cr. P.C.

11. The Hon'ble Supreme Court laid the categories of the cases by way of illustration wherein the powers under section 482 of Cr. P.C. can be exercised to prevent abuse of process of any Court or otherwise to secure ends of justice. Under section 482 of Cr. P.C., the High Court has to consider the FIR and the contents therein and to find out whether the offence is made out against the accused. As per the case of the prosecution, in raid they found that massage Spa was used for the purpose of prostitution and police have seized certain articles. The police have also seized the documents, i.e., retirement-cum-admission deed where after retirement-cum-admission deed dated 20th October, 2016, is processed by the police wherein in place of retiring partner Anuradha, present applicant/accused Babita Narang was substituted as new partner and she was aware that it was a business of SPA, beauty and health related services. In the said Agreement, the terms of share of profit by the partners are mentioned, which shows both Kunal Verma and Babita had 50% share.

12. In view of this, no case is made out to set aside and quash the FIR bearing No. 176 of 2018 registered with Borivali Police Station. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)

(S.S. SHINDE, J.)