

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 612 OF 2022

Abhay Marutirao Chidri

... Petitioner

Versus

The State of Maharashtra

... Respondents

.....

Mr. Pankaj J. Das for the Petitioner.

Mr. Y.M.Nakhwa, APP for the State.

.....

**CORAM : NITIN JAMDAR AND
 N.R. BORKAR, JJ.**

DATED : 20 AUGUST 2022

P.C. :-

Heard learned Counsel for the parties.

2. By this petition, the Petitioner has sought to quash and set aside the FIR bearing C.R. No. 1066 of 2021 lodged at Wakad Police Station under Sections 370 (3) and 34 of the Indian Penal Code; and Sections 3, 4 and 5 of Immoral Traffic (Prevention) Act, 1956.

3. The FIR came to be lodged by the Respondent -Complainant, an Officer of the Immoral Traffic (Prevention) Department, Pimpri Chinchwad. It was stated that as per information received, in the premises in question, which was used as a spa, the immoral trafficking and forceful prostitution was taking place. The Officer prepared for a raid for sending

bogus customers. The raid was conducted on 17 December 2021 wherein the raiding party went to the premises in question and they accosted a woman, who is present on the spot. Those present in the premises disclosed that they are carrying out activities, which were offences under the Act of 1956. The raiding party also collected cash from the counter in the premises and recorded statements. Case of the prosecution against the Petitioner is that the Petitioner is the owner of the premises, the spa, which was used for the illegal activities.

4. After having heard the matter for some time, it was put to the Petitioner that the Petitioner also has remedy of applying for discharge under the Code of Criminal Procedure after the chargesheet is filed. The matter was kept back. The learned Counsel, after taking instructions from the Petitioner, submitted that the Petitioner intends to pursue the extraordinary remedy, which is the petition under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, and address this Court on the merits of the case. In light thereof, we have considered the submissions advanced.

5. The learned Counsel for the Petitioner submitted that though the Petitioner is the owner of the premises in question, he had no knowledge of the activities going on therein as he had given the premises on leave and license, which licenses he has subsequently revoked and taken back the possession. The learned Counsel also submitted that the statements of the

co-accused, which have been recorded, state that they were in possession and it is clear from the material that the Petitioner has not committed any offence.

6. The Petitioner is the owner where the activities giving rise to the offences as above are being conducted. The leave and licenses stated to be executed by the Petitioner does not mean that the Petitioner had surrendered the entire control over the premises. It is not possible to believe, without evidence and the trial, that the Petitioner had no knowledge of the activities were going in the premises. That inspite of being the owner, the Petitioner had no knowledge of the activities going on in his premises, is a matter of defence of the Petitioner, which the Petitioner will have to demonstrate at the time of trial. Merely relying on the statements of co-accused that they were in possession, we cannot record a finding of fact that the Petitioner was not aware of the activities and was innocent, not guilty of offence and no trial is necessary.

7. Writ petition is rejected.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

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