

Anand

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

WRIT PETITION NO. 3680 OF 2022

Prince Kanti Makwana .Petitioner
Age : 35 yrs, Occu : Service
Residing at Room No. 305, A-1,
Mangal Shrushti CHS,
Dr. Babasaheb Ambedkar Nagar,
Race Course, Mahalaxmi,
Mumbai - 400 034.

Vs.

1. The State of Maharashtra .Respondents
(Through The Public Prosecutor,
High Court, A. S.)
2. The Inspector of Police
Tardeo Police Station

Mr. Hare Krishna Mishra a/w Mr. Satish Yadav, Ms Poonam
Devkar i/b. Mr. Satish B. Yadav, Advocate, for the Petitioner
Ms S. D. Shinde, APP, for the Respondents - State
Mr. Vishwas Dhumal, PSI, Tardeo Police Station, Mumbai present

**CORAM : SUNIL B. SHUKRE AND
M. M. SATHAYE, JJ.**

DATE : 28 MARCH 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, the Petition is taken up for final disposal at the stage of admission itself.

4. The gist of the offences registered against the owner, manager, cashier, waiter and bar girls is that in the night of the incident, all these persons indulged in obscene dance and did some other obscenities while serving liquor to the customers. The Petitioner, admittedly, was the customer, who had entered the bar and was inside the bar only for a temporary period of time. According to the Petitioner, he was inside the bar only for 15 minutes. At this stage, charge-sheet does not clarify this aspect of the matter but, it does clarify the fact that the Petitioner was inside the bar only as customer of the bar. The charge-sheet does not attribute any overt act to the Petitioner. That being so, the Petitioner cannot be said to be a person, who had done something as amounting to commission of any of the offences which have been registered in the present crime or was instrumental in abetting any of those crimes. Thus, there is no material available on record on the basis of which it can be said that the offences registered in the present case or any of them are/is prima facie

made out against the Petitioner. Therefore, this is a fit case for making interference in the matter. Hence, the order.

O R D E R

- (i) The Petition is allowed;
- (ii) The FIR in C. R. No. 74 of 2018 registered for the offences punishable under Sections 353, 341, 294, 114 r/w 34 of the Indian Penal Code and under Sections 3, 8(1), (2)(4) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (working therein) Act, 2016 and all the connected proceedings taken on the basis of C. R. No. 74 of 2018 are hereby quashed & set aside insofar as it relates to the Petitioner only;
- (iii) Rule is made absolute in the aforesaid terms;
- (iv) The Petition is disposed of. No costs.

(M. M. SATHAYE, J.)

(SUNIL B. SHUKRE, J.)