

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36111-2018 (O&M)
DECIDED ON: 3rd MAY, 2023

PRIYA

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Mansur Ali, Advocate
for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

Mr. Rajveer Singh Brar, Advocate for
Mr. Vikram Anand, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C., has been invoked for quashing of FIR No. 52, dated 18.04.2018, under Sections 3, 4 and 5 of Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as 'Act'), registered at Police Station Beas, Amritsar Rural.

2. As per FIR the facts of the case are as under:-

“This case was registered by Deputy Superintendent of Police, Baba Bakala Sahib on the allegations that he along-with police party was present regarding special duty at bridge Near Raiya, when special informant came to them and gave information that owner of Hotel Four Season Manjit Pal Singh Baath son of Rajinder Singh Caste Jatt resident of Niranjarpura and his son Sandeep Singh Bath have built a lot of rooms in their Hotel Four Season. That the owner and son Sandeep Singh and manager Kanwarpreet Singh son of Gurmukh Singh caste Jatt resident of Akalgarh Dhapaia call girls and ladies in the hotel and run

illegal activities and take Rs.1000 or Rs. 1500 from the customers according to the woman. That Woman SI Simarjeet Singh 2713/Amritsar City and Woman H.C. Balwinder Kaur 1709 were called and H.C Balkar Singh 1143 after being clothed in civils were given two Indian currency notes of 500-500 numbered 4AP821246 and 4RM433702 and sent to the Hotel Four Season as fake customer. Then they parked their cars far from the Hotel Four Season and the force was made to stand and H.C Balkar Singh was instructed that when the deal is finalized then give them a missed call. After about 15-20 minutes on receiving a missed call of H.C. Balkar Singh fellow personnels along with him after making different parties, conducted a raid on Hotel Four Season. When the police came, 3 men sitting on the counter started running, of which two were caught with the help of fellow personnel and asked about their name and address, first person stated his name Manjit Pal Singh Baath son of Rajinder Singh caste Jatt Resident of Niranjarpura (owner of the hotel) and the second stated his name as Kanwarpreet Singh son of Gurmukh Singh Caste Jatt Resident Of Akalgarh Dhapaia (Manager of the hotel) and the person who ran his name was found to be Sandeep Singh son of Manjit Pal Singh Caste Jatt resident of Niranjarpura (son of the owner). That after this the rooms of the Hotel were checked in the presence of Ladies Force, that in Room No. 303 Ramanand Singh son of Swaran Singh Caste Mazhbi Sikh Resident of Near Telephone Exchange, Majitha and the woman told her name to be Kanwalpreet Kaur Wife of Jajpal Singh Caste Mazhbi Sikh resident of Manochahal, District Tarn Taran, both were found in an objectionable condition, after which Room No. 304 was checked in which there was Vikas Randhawa son of Prem Randhawa Caste Christian resident of Bhandal, Police Station Kalanor District Gurdaspur and the girl told her name to be Priya Daughter of Sampooran Singh Caste Jatt resident of Dhangu Road, Pathankot, District Pathankot, both were found in an objectionable condition. After this Room No. 306 was checked

in which a boy Jatinder Singh son of Gurdial Singh Caste Jatt resident of Kallewal PS Gharonda and the girl told her name to be Bhawna Thakur Daughter of Rameshwar Singh Caste Rajput resident of Garota Kalan, Tehsil and District Pathankot, both of whom were found in an objectionable condition. On searching the Manager, from his pant's right pocket above-said 2 notes sent by them were found. Accordingly, the FIR was registered”.

3. Learned counsel for the petitioner contends that as per the allegations in the FIR, petitioner was found indulging in immoral activities and in objectionable posture at the time of raid in a room of the hotel, which was running this racket and even, if the version of the prosecution as contained in the FIR is to be believed, no offence punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 is made out. It is asserted that the provisions of Section 15 of the Act have not been complied with, which is mandatory in nature.

4. Learned State counsel has contended that the petitioner was found at the site i.e., Hotel in question and was caught red handed with one male namely Vikas Randhawa, when the raid was conducted in the premises of Hotel Four Season and her presence itself proves the offence. He further contends that the premises was used for prostitution and the raid was conducted only after a deal was finalized. The currency notes were also recovered from the pocket of the Manager.

5. Heard.

6. The Supreme Court in the case of “**State of Haryana & Ors. Vs. Bhajan Lal & Ors. 1992 Supp (1) SCC 335**” the scope of inherent powers of the High Court under Section 482 Cr.P.C. to quash the FIR has been discussed in detail. At the same time, the Apex Court identified the following cases in

which FIR/complaint can be quashed:

- “1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- 3. Where the un-controverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
- 5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the 21 proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.*
- 7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

6 The definitions of Sections 3, 4 and 5 of the Act, in short can be understood as:

"Keeping a brothel or allowing premises to be used as brothel, living on the earnings of the prostitution, sexually exploiting, receives or detains against his will any person as a slave."

7. In the instant case, though the prosecution was launched on the basis of her presence in a Hotel room with one male namely Vikas Randhawa at the time when the raid was conducted, however, it is nowhere mentioned that she was involved in the management of the premises or in any way assisted the co-accused persons in controlling and managing the activities of the premises. No other incriminating material evidence has been brought on record to connect the petitioner with the offence. Mere presence with another person without any corroboration does not indicate that the petitioner for the sole reason being a lady can be vindicated to say that she was engaged in prostitution.

8. In the absence of *prima-facie* material, which the police could not gather even after conclusion of investigation, the further continuation of the case against the petitioner will be an abuse of process of the Court.

9. In view of discussions made hereinabove, this Court is of the considered view that continuation of this FIR would amount to an abuse of the process of Court inasmuch as in all probability petitioner will get acquittal and, therefore, it is just and expedient for this Court to quash the FIR alongwith consequential proceedings at this stage itself by exercising the powers under Section 482 Cr.P.C. It would be totally unjust and in fact cruel at the hands of law to make the petitioner to undergo strenuous procedure of

trial, despite the fact that there is no incriminating material to connect her to the offence at all.

9. Accordingly, the present petition is allowed and FIR No. 52, dated 18.04.2018, under Sections 3, 4 and 5 of Immoral Traffic (Prevention) Act, 1956, registered at Police Station Beas, Amritsar Rural, is quashed, qua the petitioner.

03.05.2023
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>