



Crl.O.P.(MD)No.8110 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.8110 of 2021 &
Crl.M.P.(MD)Nos.4179 & 4180 of 2021

Jeyachandran

...Petitioner

VS.

1.The Inspector of Police,
K.Pudur Police Station,
Madurai.
(Crime No.626 of 2019)

2.Thangamurugan @ Gurumurthy

3.The Director General of Police,
Tamil Nadu.

... Respondents

(R3 suo motu impleaded as per order of this Court
dated 18.08.2021 in Crl.O.P.(MD)Nos.4233 and 8110 of 2021)

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.1090 of 2020 on the file of the Judicial Magistrate No.VI, Madurai and quash the same.



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For Petitioner

: Mr.Niranjan S.Kumar

For Respondents

: Mr.M.Sakthi Kumar
Government Advocate (Criminal Side)
for R1 & R3

ORDER

Seeking to quash the final report in C.C.No.1090 of 2020 on the file of the Judicial Magistrate No.VI, Madurai, the present Criminal Original Petition is filed.

2. The petitioner is arrayed as A3 in C.C.No.1090 of 2020. The case of the prosecution in a nutshell is as follows.

The defacto complainant Gurumurthy is a resident of Madurai. On 07.10.2019, he received a call to his mobile number 7358889666 from the mobile number 9123594304. The person on the other line informed the defacto complainant that they are giving Kerala Ayurvedic Massage at II floor, Yasin Towers, Surveyor Colony, Madurai and that they are charging Rs.1,500/- per hour. The defacto complainant with an intention



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to have the Massage, went to the above address and met one Babu and Fathima Jannath in the said place. They sent him inside the shop after handing him over a condom. When he went inside, totally confused, he met one Jeyachandran (petitioner herein) who was standing nude. When the defacto complainant enquired him, he informed him that he is frequently visiting the Massage Centre to have sexual intercourse with the women in that place. He also instigated the present petitioner to have sexual intercourse with the women in that Centre. When he enquired one of the women in that place, she stated that her name is Deepika and that she came down to that place at the insistence of one Babu and one Nandhana, who are running the Massage Centre. He immediately came out of the Massage Centre and lodged a complaint with the Inspector of Police, K.Pudur Police Station which came to be registered as FIR in Crime No.626 of 2019. The Inspector of Police took up investigation and arrested the accused and after completing investigation, laid a final report before the Judicial Magistrate No.VI, Madurai in C.C.No.1090 of 2020 against Babu, Fathima Jannath, Jeyachandran and Nandhana for the offences punishable under Sections 3(1), 3(2)(a), 4(1), 5(1)(a), 5(1)(b),



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5(1)(d) and 6(1)(b) of Immoral Traffic (Prevention) Act, 1956 [hereinafter referred as 'the Act' in short].

3. Mr.Niranjan S.Kumar, learned counsel appearing for the petitioner would contend that the petitioner has not committed any offence as alleged by the prosecution and in any event, the Inspector of Police, K.Pudur Police Station does not have power to enter upon any premises and conduct search without warrant as per Section 15 of the Act. According to him, a Special Police Officer appointed by the State Government or the Central Government can enter upon the premises and conduct search. In this regard, he relied on the decisions of this Court in CrI.O.P.(MD)No.14232/2022 dated 25.11.2022, CrI.O.P.(MD)No. 16050/2023 dated 26.07.2023 and CrI.O.P.(MD)No.15214/2021 dated 13.04.2022 and contended that the purpose of enactment of the Act was to inhibit or abolish the commercialized trafficking of women and girls for the purpose of prostitution as an organized means of living and the Police officer who is neither a Special Police officer under the Act nor a Police officer subordinate to the Special Police Officer, cannot voluntarily



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investigate the offence under the Act. His further contention is that the petitioner has also gone to the Massage Centre for getting Kerala Ayurvedic Massage and he did not instigate the defacto complainant to have sexual intercourse with the women in the Massage Centre. It is also his contention that though in the final report as well as in the FIR, it is stated that one Thangamurugan @ Gurumurthy has lodged the complaint, in column No.6 of the FIR, the name of the complainant is indicated as N.Anuradha, who is the Inspector of Police. Therefore, he would contend that the entire proceedings in C.C.No.1090 of 2020 on the file of the Judicial Magistrate No.VI, Madurai is liable to be quashed.

4. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) appearing for the respondents 1 and 3 pressed into service a copy of G.O.Ms.No.618, Social Welfare Department, dated 13.04.1987 and the scanned copy of the same is as follows.



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Important Tamil Nadu Government Orders

GOVERNMENT OF TAMILNADU

ABSTRACT

Act - The Suppression of Immoral Traffic in Women and Girls Act 1956 (Central Act 104 of 1956) Special Police Officers under Sections 13 (2) and 13 (3) (1) of the Act - Appointed

SOCIAL WELFARE DEPARTMENT

G.O.Ms.No.618

Dated: 13-04-1987
Panguni 20, Aithazhi
Thiruvallur Asadu 2018

Read also:

1. G.O.Ms.No.2527, Home, Dated: 8-9-58
2. G.O.Ms.No.2913, Home, Dated: 29-6-84
3. From the Addl. Registrar, High Court, Madras Lr.No.KCC/2753/84/12 dt. 12-8-85
4. From the Director of Approved Schools and Vigilance Service, letter No.23215/H3/85, dated: 20-09-85.

ORDER:

In exercise of the powers conferred by Section 13 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956) and in supersession of the orders issued with G.O. Ms.No.2527, Home dated the 8th September 1958 and G.O. Ms.No.2014, Home, dated: the 29th June 1964, the Governor of Tamil Nadu hereby appoints every Police Officer not below the rank of an Inspector of Police, to be the Special Police Officer for dealing with offences under the said Act, in respect of the areas within his jurisdiction and also appoints every Police Officer (including Women Police Officers wherever necessary) not below the rank of a Sub-Inspector of Police as subordinate Police Officers to assist the Special Police Officer concerned.

Sd/- C. Thangaraju
Commissioner and Secretary to Government.

Copy of G.O.Ms.No.618, Home Department, dated 27th February 1990.

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5. It is seen from the above Government Order that the Governor of Tamil Nadu appointed every Police Officer not below the rank of the Inspector of Police as a Special Police Officer for dealing with offences under the Act in respect of the areas within his jurisdiction and also appointed every Police officer (including Women Police officers) not below the rank of Sub-Inspector of Police as subordinate Police Officers to assist the Special Police officer concerned. In fact, the decisions in Crl.O.P.(MD)No.14232/2022, Crl.O.P.(MD)No.16050/2023 and Crl.O.P.(MD)No.15214/2021 dated 13.04.2022 cannot be applied to the facts of the present case because in those decisions, G.O.Ms.No.618, Social Welfare Department, dated 13.04.1987 has not been dealt with.

6. The contention of the learned counsel for the petitioner is that though one Thangamurugan @ Gurumurthy is stated to have lodged the complaint with the Inspector of Police, K.Pudur Police Station, the name of the complainant is indicated as N.Anuradha, who is the Inspector of Police, K.Pudur Police Station. However, a perusal of FIR clearly shows that based on the complaint lodged by the second respondent / defacto



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complainant, namely, Gurumurthy, the Inspector of Police, N.Anuradha registered FIR in Crime No.626 of 2019 and in column No.6 the complainant name has been wrongly typed as N.Anuradha, Inspector of Police. The petitioner cannot take advantage of this typographical error. The petitioner's contention that he never instigated the second respondent / defacto complainant to have sexual intercourse with the women in the Massage Centre cannot be gone into in the instant petition, as it is a disputed question of fact.

7. In view of the above discussion, the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

13.02.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To
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- 1.The Judicial Magistrate No.VI, Madurai
- 2.The The Inspector of Police,
K.Pudur Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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