



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1862 OF 2024

Rajaram @ Rajendra Wamanrao Ghogare.

...PETITIONER

Versus

1. The State of Maharashtra.
2. District Collector & Magistrate,
Ahilyanagar.
3. Sub-Divisional Magistrate,
Shirdi Division.
4. Assistant Police Inspector,
Loni Police Station.

...RESPONDENTS

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Shri Vikram R. Dhorde, Advocate for the petitioner.

Shri G.O. Wattamwar, APP for the respondents/ State.

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CORAM : SUSHIL M. GHODESWAR, J.

Reserved on : 10 September, 2025

Pronounced on : 15 September 2025

ORDER :-

1. The petitioner is praying for quashing and setting aside the order dated 23.10.2024 passed by respondent No.3 Sub-Divisional Magistrate under Section 18(1) of the Immoral Traffic (Prevention) Act, 1956 in the proceeding bearing No.KV/D/212/2024 whereby, respondent No.3 has directed evacuation and

closure of the petitioner's Hotel Saiprasad situated at Loni Khurd, Taluka Rahata, District Ahilyanagar, for a period of one year.

2. While issuing notice on 29.10.2024, this Court granted ad-interim relief in terms of prayer clause C thereby, staying the impugned order on the condition that the petitioner shall not use or permit to use the said hotel for any purpose prohibited by law.

3. According to the petitioner, he is the owner of the said hotel and vide the memorandum of understanding dated 15.04.2024, he has allowed one Prashant Parkhe to run the said hotel/ lodge. Accordingly, the said Prashant Parkhe has been running the said hotel. The raid was carried out on the said hotel, which resulted into registration of the FIR on 22.08.2024 vide Crime No.480/2024 with the Loni Police Station for the offences punishable under Sections 3, 4, 5, 7, 8 of the Immoral Traffic (Prevention) Act, 1956 and Sections 65(e) and 83 of the Maharashtra Prohibition Act, 1949. The petitioner obtained anticipatory bail in the said crime. On 11.10.2024, respondent No.3 Sub Divisional Magistrate issued the show cause notice

under Section 18 of the Immoral Traffic (Prevention) Act, 1956 to the petitioner as to why the said hotel, owned by the petitioner, should not be closed down. According to the petitioner, he has duly replied the said notice. However, on 23.10.2024, respondent No.3 Sub Divisional Magistrate passed the impugned order thereby, closing down the said hotel. Therefore, the petitioner approached to this Court under Articles 226 and 227 of the Constitution of India r/w Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

4. The learned advocate for the petitioner submitted that the petitioner being the supporter of one political party, therefore, the alleged action of raiding as well as closing down his hotel/ lodge is carried out at the behest of his political opponents. He would further submit that the impugned order passed by respondent No.3 is violative of principles of natural justice as no proper opportunity of hearing was given to him. It was not proper for respondent No.3 to pass the impugned order of closing down the hotel without there being any conviction by the competent court in respect of the crime alleged to have been taken place at the hotel. In support of his submission, the learned

advocate has relied on the judgment of this Court in ***Maqsood Mohammed Mustak vs. State of Maharashtra, reported in 2022 All M.R. (Cri) 3743***. Thus, it is prayed that the impugned order be quashed and set aside.

5. *Per contra*, the learned APP submitted that the impugned order passed by respondent No.3 is correct and proper. The order is in accordance with law and requires no interference by this Court. He submitted that the impugned action is in pursuance of the judgment dated 30.10.2015 passed by this Court at the Principal Seat in Criminal Public Interest Litigation No.4/2015 (***Freedom Firm vs. Commissioner of Police, Pune and others***). He specifically invited my attention to paragraph No.30 of the said judgment wherein, certain guidelines have been issued by this Court for curbing human trafficking. The learned APP also relied on the submissions made by respondent Nos.2 and 3 in their affidavit filed before this Court. According to the learned APP, the petitioner is involved in serious crime of human trafficking, therefore, prayed for rejection of this writ petition.

6. With the assistance of the learned advocates, I have gone through the material available on record. In view of the

submissions made by the learned advocates, it is to be seen that on 11.10.2024 respondent No.3 issued the show cause notice under Section 18 of the Immoral Traffic (Prevention) Act, 1956, calling upon the petitioner as to why the said hotel should not be closed down. In response to the said notice, the petitioner submitted the reply stating therein that the petitioner is owner of the said hotel 'Saiprasad' and he had given the said hotel on lease to one Prashant Parkhe in April, 2024 and to that effect, the memorandum of understanding was also executed between them. The petitioner, in the said reply, has specifically stated that before issuing notice under Section 18(1), it was necessary to have the complaint stating therein that the said premises are being used as brothel house and such premises are within a distance of 200 meters from public place. There is also requirement that such person should have been convicted under Section 3 or Section 7 of the said Act and, therefore, the impugned notice and action taken against the petitioner is illegal. The judgment in ***Maqsood Mohammed Mustak (supra)*** cited by the petitioner clearly states in paragraph No.16 that "*The order under sub-section (2) of Section 18 can be passed by a Court only against the person who is convicted for the offence*

punishable under Section 3 or 7 of the PITA, namely, keeping a brothel or allowing the premises to be used as a brothel and carrying on prostitution in or in the vicinity of public places, respectively”.

7. It is to be noted that the petitioner is not convicted in the crime under Section 3 or 7 of the Immoral Traffic (Prevention) Act, 1956. This crime of 2024 is the first crime registered under the said Act, which is still pending. Earlier crimes, which are registered against the petitioner, are pertaining to the Maharashtra Prohibition Act, 1949.

8. In view of the above and as admittedly, there being no conviction under the Immoral Traffic (Prevention) Act, 1956, the impugned order dated 23.10.2024 passed by respondent No.3 deserves to be quashed and set aside being illegal. Hence, I pass the following order:-

ORDER

This Writ Petition is allowed and the impugned order dated 23.10.2024 passed by respondent No.3 Sub-Divisional Magistrate under Section 18(1) of the Immoral Traffic

(Prevention) Act, 1956 in the proceeding bearing No.KV/D/212/
2024, is quashed and set aside.

kps

(SUSHIL M. GHODESWAR, J.)