

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3653 OF 2025**

Dipak Somnath Talwad ...Petitioner
Versus
State of Maharashtra And Ors. ...Respondents

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Mr. Swaraj Jadhav for the Petitioner
Mr. A. S. Shalgaonkar APP for the State

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**CORAM : SHIVKUMAR DIGE, J.
DATE : 11th DECEMBER 2025**

P.C.

1. The challenge in this Writ Petition is the impugned order dated 7th May 2025 passed by the learned Sub-Divisional Officer, ('SDO') Solapur No. 1 under Section 18(1) of the Immoral Traffic (Prevention) Act, 1956 ('PITA').

2. It is contention of learned counsel for the petitioner that the petitioner owns a lodge. He had given the said lodge on leave and license basis to co-accused. The police raided the lodge and found that prostitution was going on there. On that ground, police registered the offence against the co-accused and present petitioner. Learned counsel further submitted that the learned SDO has seized the said lodge under the provisions of PITA. It is contention of learned counsel for the petitioner that it cannot be seized as the said lodge

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was given on leave and license basis by the petitioner. Learned counsel further submitted that the petitioner had given notice to the co-accused to vacate the lodge. The petitioner was not aware about the prostitution was going on in his lodge. But these facts are not considered by the learned SDO and requested to allow the Writ Petition.

3. It is contention of learned APP that the co-accused is having antecedents of the same nature. The petitioner was aware that the prostitution was going on in the said lodge but he deliberately ignored the said fact. The learned SDO has passed well reasoned order and no interference is required in it. Hence, requested to dismiss the Writ Petition.

4. I have heard both learned counsels, perused the impugned order. As per the provisions of Section 18 of PITA, the Magistrate has power to seize the premises. Section 18 of the said Act reads as under:

“18. Closure of brothel and eviction of offenders from the premises.—(1) A magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof within a distance of 5[two hundred metres] of any

public place referred to in sub-section (1) of section 7, is being run or used as a brothel by any person or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person incharge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof; and if, after hearing the person concerned, the magistrate is satisfied that the house, room, place or portion is being used as a brothel or for carrying on prostitution, then the magistrate may pass orders—

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place or portion;

(b) directing that before letting it out during the period of one year 1[or in a case where a child or minor has been found in such house, room, place or portion during a search under section 15, during the period of three years], immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the magistrate:

Provided that, if the magistrate finds that the owner,

lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein.

(2) A court convicting a person of any offence under section 3 or section 7 may pass order under sub-section (1) without further notice to such person to show cause as required in that sub-section.

(3) Orders passed by the magistrate or court under sub-section (1) or sub-section (2) shall not be subject to appeal and shall not be stayed or set aside by the order of any court, civil or criminal and the said orders shall cease to have validity after the [expiry of one year or three years, as the case may be]:

Provided that where a conviction under section 3 or section 7 is set aside on appeal on the ground that such house, room, place or any portion thereof is not being run or used as a brothel or is not being used by prostitutes for carrying on their trade, any order passed by the trial court under sub-section (1) shall also be set aside.

(4) Notwithstanding anything contained in any other law for the time being in force, when a magistrate passes an order under sub-section (1), or a court passes an order under sub-section (2), any lease or agreement under which the house, room, place or portion is occupied at the time, shall become void and inoperative.

(5) When an owner, lessor or landlord, or the agent of such owner, lessor or landlord fails to comply with a direction given under clause (b) of sub-section (1), he shall be punishable with fine which may extend to five hundred rupees or when he fails to comply with a direction under the proviso to that sub-section, he shall be deemed to have committed an offence under clause (b) of sub-section (2) of section 3 or clause (c) of sub-section (2) of section 7, as the case may be, and punished accordingly.”

5. This section provides that if a Court convicts a person of any offence under Section 3 or Section 7, in such case, by issuing show cause notice, the Magistrate can seize the said premises. This Section also provides seizure of the place by the Magistrate, if any house, room, place or any portion thereof within a distance of two hundred meters of any public place. It also provides if any child or minor is found in such house room, it can be attached. In this section, it is

specifically provided that if the Magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein. In the impugned order, the learned Magistrate has observed that the petitioner was aware about the prostitution was going on in his lodge as well as this Court (Coram: Rajesh S. Patil, J.) has directed to seize the said lodge.

6. Considering the provisions of the PITA as well as whether the petitioner was aware that prostitution was going on in his lodge or not is part of trial. The petitioner has given eviction notice to co-accused who was running prostitution in the said lodge.

7. In view of above, I pass following order:

ORDER

I. Writ Petition is allowed.

II. The order dated 7th May 2025 passed by the learned Sub-

Divisional Officer, ('SDO') Solapur No. 1 under Section 18(1) of the Immoral Traffic (Prevention) Act, 1956 is quashed and set aside.

III. The petitioner may lease out the said lodge with the permission of the Magistrate for the commercial purpose only.

8. Writ Petition is disposed off in above terms.

(SHIVKUMAR DIGE, J.)