

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

CRIMINAL WRIT PETITION NO. 4471 OF 2025

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Vivekanand Yallappa Solanki,
Age – 61 years, Occu – Business,
R/at 693 B Ward, Jain Galli,
Ravivar Peth,
Kolhapur – 416 012.

... Petitioner

Versus

1. The State of Maharashtra,
Through Superintendent of Police,
Kolhapur.
2. Police Inspector,
Laxmipuri Police station,
Kolhapur.
3. Dilip Shishupal Pawar,
Police Inspector, Shivajinagar Police Station,
Ichalkaranji, Tal. Hatkanagale,
Dist. Kolhapur.

... Respondents

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Mr. Sangramsinh Yadav for the Petitioner.
Ms. Veera Shinde, APP for the Respondent – State
Mr. Digambar M. Gaikwad, API, Laxmipuri Police Station, Kolhapur
present.

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**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : November 12, 2025.

ORAL JUDGMENT :- (Per M.S. Karnik, J.)

1. The present petition seeks to quash and set aside the summary criminal cases, more particularly described in Schedule A and the connected FIRs registered with Laxmipuri Police Station, Kolhapur for the offences punishable under Section 33(w) of the Maharashtra Police Act, 1951 (for short "the Act").

2. We have perused the notice of summary criminal cases, registered against the petitioner under Section 33(w) of the Act, which is at page 22 onwards of the paper book.

3. The reasons for initiating action against the petitioner is for violation of the provisions of Section 33(w) of the Act alleging the petitioner running the cold-drink house beyond the permissible hours prescribed by the license. The petitioner is engaged in the business of running 'Ice-cream and cold-drink house under the name and style of "Y.N. Solanki Cold Drink House" since the year 1949. The certificate of registration of the establishment was issued in favour of the petitioner under the provisions of Maharashtra Shops and Establishments Act, 2017 by the Assistant Commissioner of Labour, Kolhapur. It is the case of the complainant / respondent that the petitioner has been keeping the establishment open beyond the permissible business hours thereby breaching the prescribed time limits. The criminal proceedings

are, therefore initiated alleging commission of an offence under Section 33(w) of the Act.

4. Learned APP invited our attention to the provisions of Section 33(w) of the Act to submit that as a result of keeping the establishment open beyond the prescribed hours, lot of inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity is being caused and, therefore, the present case is clearly covered within the meaning of clause (ii) of Section 33(w) of the Maharashtra Police Act.

5. Heard learned Counsel for the petitioner and the learned APP for the respondent – State.

6. For facility of convenience, it would be pertinent to note few relevant provisions of the Act, which read thus :-

"2.[5-A "eating-house" means any place to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises by any person owning or having an interest in or managing such place, and includes a refreshment-room, boarding-house, coffee-house or a shop where any kind of food or drink is supplied to the public for consumption in or near such shop but does not include "a place of public entertainment."].

2.(9) "place of public amusement" means any place where music,

singing dancing, or any diversion or game, or the means of carrying on the same, is provided and to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted and includes a race course, circus, theatre, music hall, billiard room, bagatelle room, gymnasium, fencing school, swimming pool or dancing hall;

2. [(10) place of public entertainment" means a lodging-house, boarding and lodging-house or residential hotel, and includes any eating-house in which any kind of liquor or intoxicating drug is supplied (such as a tavern, a wine shop, a beer shop or spirit, arrack, toddy, ganja, bhang or opium shop) to the public for consumption in or near such place:]

7. It would also be significant to reproduce Section 33(w), which reads thus :-

"33.(w) (i) licensing or controlling places of public amusement or entertainment;

(ii) prohibiting the keeping. of places of public amusement or entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity:

(iii) regulating the means of entrance and exit at places of public amusement or entertainment or assembly, and providing for the maintenance of public safety and the prevention of disturbance thereat:"

8. We have perused the relevant provisions of the Maharashtra Shops and Establishments (Regulations of Employment and Conditions of Service) Act, 2017 under which the establishment of the petitioner is registered.

9. Reading of the provisions indicate that the petitioner-establishment is not a 'place of public amusement' as defined by Section 2(9) or a 'place of public entertainment' as defined by Section 2(10) of the Maharashtra Police Act. Reading of Section 33(w) clearly reveals that the provision is meant for licensing or controlling places of public amusement or entertainment. The prohibition mentioned in clause w(ii) is in respect of controlling place of public amusement or public entertainment. It is only for those places of 'public amusement' or 'public entertainment' that the provision of Section 33(w) of the Act will apply.

10. The petitioner establishment cannot be termed as 'place of public amusement or entertainment' within the meaning of Section 2(9) or Section 2(10) for being governed under the provisions of Section 33(w) of the Act.

11. In such view of the matter, we have no hesitation in holding that Section 33(w) of the Act has no application to the petitioner establishment, which is running a cold-drink house.

12. The petition is, therefore, allowed in terms of prayer clause (b), which reads thus :-

“b) That, this Hon'ble Court after going through to record be pleased to exercise powers u/s. 528 of BNSS to quash and set aside Summary Criminal Cases more particularly described in Schedule A and the connected FIRs registered with Laxmipuri Police Station, Kolhapur, for the alleged offences under Section 33(w) of the Maharashtra Police Act;”

13. The petition is disposed of. No order as to costs.

[Ajit B. Kadethankar, J.]

[M. S. Karnik]