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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 6685 OF 2024**

Ravi Shantaram Sharma]
Age – 32 years, Occupation – Service,]
Having address at – B-301, Amisha Avenue,]
Kashigaon, Mira Road, Thane – 401107] ...Petitioner

Vs.

The State of Maharashtra]
(At the instance of The Sr. P.I.,]
Dahisar Police Station] ...Respondent

Mr. Ganesh Bhujbal a/w. Mr.Deodatta Lad for Petitioner.

Mr. Vinod Chate, A.P.P for Respondent – State.

Mr.Shendage, API a/w. Mr.Salvi, PSI, Pairvi Officer, Dahisar Police Station
present.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**
RESERVED ON : 5th AUGUST 2025
PRONOUNCED ON : 20th AUGUST 2025

JUDGMENT (PER RAJESH S. PATIL, J.) :-

1) By this Petition, the Petitioner is seeking quashing of C.C.No. 2604264/PW/2022 pending before the learned Judicial Magistrate First Class (26th Court), Borivali, Mumbai, arising out of C.R.No. 007 of 2020 registered against him at Dahisar Police Station, Mumbai, for offences punishable under Sections 308, 294, 114, 109 of the Indian Penal Code,

1860 (IPC), Sections 3, 8(1), 8(2), 8(3), 8(4), 8(5) and 8(6) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (Working Therein) Act, 2016 (for short 'Act of 2016'), Section 68 of Maharashtra Prohibition Act and Sections 33(A), 37, 129, 131 of the Maharashtra Police Act, 1951.

2) The aforesaid FIR came to be registered against Petitioner and other Accused persons on 2nd January, 2020, with an allegation that obscene dances were being performed by females in a Bar, managed by the co-accused Mr. Ramesh Poojari, Mr. Ganesh Khot and Mr. Bala Kamble, wherein Petitioner was present as customer while the raid was conducted by the police.

3) According to Petitioner, even if the contents of the FIR and the charge-sheet submitted pursuant to investigation are perused, no role is attributable to Petitioner, attracting the offences punishable under the aforesaid Acts. Learned Advocate for Petitioner reiterated the contention that, there were no specific allegations against Petitioner and that the material brought on record, even if accepted to be true, does not make out any offence against Petitioner. On this basis, it was submitted that when the ingredients of the alleged offences were not made out, there was no question of Petitioner being made to face the trial. It is for these reasons that Petitioner seek to invoke extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of the IPC, for

quashing of the said case as against them.

4) On the other hand, the learned APP representing the State submitted that, the name of Petitioner is clearly mentioned in the FIR and the material annexed to the charge-sheet indicates his presence at the spot of incident, Prakash Bar and Restaurant, where the alleged crime was committed. Therefore the Petition deserves to be dismissed, as the charge-sheet cannot be quashed at this stage.

5) We have heard the learned Advocate for the rival parties, and have perused the FIR and the charge-sheet. It is necessary to examine the specific contention raised on behalf of Petitioner that, there are no allegations against Petitioner demonstrating that the ingredients of the alleged offences could be said to be present against the Petitioner.

6) The Petitioner is alleged to have committed offences under Sections 308, 294, 114, 109 of the IPC, read with Sections 3, 8(1), 8(2), 8(3), 8(4), 8(5) and 8(6) of Act of 2016, Section 68 of the Maharashtra Prohibition Act and Sections 33(A), 37, 129, 131 of Maharashtra Police Act.

7) Perusal of the above quoted provisions would clearly indicate that for attracting offence under the Act, a person against whom the offence is alleged is said to have indulged in any obscene act at a public place. A perusal of the material on record shows that, no such allegations are specifically made against the Petitioner. Considering the allegation made in the FIR and charge-sheet, in our view, for Section 302 to be attracted, the

essential requirement is the presence of intent or knowledge that the Act is likely to cause bodily injury which may result in death. It is alleged that due to the Police raid, the girls, who were hiding in a mezzanine floor, got suffocated and had to be taken to a hospital for treatment. In our view, the owner and the manager of the bar would at the most be responsible for such an act. The Petitioner was merely present as a customer and was having no intent or knowledge to cause such bodily injury as is likely to cause death. Therefore, the ingredients of this Section are not attracted qua the Petitioner. As regards Section 294 of IPC, there is no allegation in the FIR that, the Petitioner personally was doing any obscene act, singing, reciting or uttering any obscene song, ballad or words, in or near any public place. Hence, in our opinion, as regards the provisions of Section 294 of IPC, mere mentioning name of Petitioner in the FIR and the charge-sheet would not suffice. Section 114 of IPC deals with any person who is an abettor, when an offence is committed. There is lack of material to indicate that the ingredients of the offences alleged under the said Act are present against Petitioner in the entire charge-sheet.

8) Considering the allegation made in the FIR and charge-sheet, in our view, Section 3, Sections 8(1) and 8(2) of the Act of 2016 will not be attracted to the present Petitioner who is alleged to be a person who had been in the said restaurant/bar as customer. The said Sections 3, 8(1) and 8(2) are applicable to an owner, proprietor, manager or any person acting

on his behalf. As regards Section 8(4), there is no allegation in the FIR that the present Petitioner personally was showering coins, currency, notes or any form of money towards a dancer or misbehaving indecently with any woman. Moreover, there is no allegation that the present Petitioner had touched any woman in the said bar, where the raid was conducted.

9) In our opinion, as regards the provisions of the Act of 2016, mere mentioning name of Petitioner in the FIR and the charge-sheet would not suffice. There is lack of material to indicate that the ingredients of the offences alleged under the said Act are present against Petitioner in the entire charge-sheet.

10) As regards to Section 68 of the Maharashtra Prohibition Act pertains to penalty for opening, keeping, managing, controlling or assisting in the operation of a common drinking house. The Petitioner is admittedly a customer and not involved in the ownership, management, control or assistance in running such an establishment. Therefore, the provisions of Section 68 are not attracted to the Petitioner.

11) As regards Section 33(A) of the Maharashtra Police Act is concerned, with the prohibition of dance in eating house, permit room or beer bar, this Section is applicable to the owner, manager or any other person associated or employed with it. In the present case, the Petitioner is merely a customer and hence the provisions of this Section is not applicable to the Petitioner.

12) Similarly provisions of Section 37 of the Maharashtra Police Act is not applicable to the present Petitioner as in this Section, power to prohibit certain Acts for prevention of disorder is explained, the Petitioner was not indulging in any kind of activity of singing song or playing music which may cause public disorder.

13) Section 129 of the Maharashtra Police Act talks about disorderly conduct at place of public amusement and so also Section 131 of the Maharashtra Police Act, deals with contravening rules. This section admittedly does not apply qua the petitioner who is not the owner of the bar. The allegation as far as the petitioner is concerned, is that he was present in the bar where the alleged incident occurred, as a customer.

14) In the case of *State of Haryana and Others Vs. Bhajan Lal and Others, 1992 Supp (1) SCC 335* the Hon'ble Supreme Court had laid down certain tests to verify as to whether accused persons needs to be made to face a trial or the FIR can be quashed. A perusal of the above quoted paragraph would show that the case of Petitioner is covered in the first three clauses thereof, as no case is made out against Petitioner about the alleged offences, even if the FIR and other material on record is accepted. The name of Petitioner is merely mentioned in the FIR and Panchnama as a customer and therefore, the Petition deserves to be allowed.

15) We have already taken similar view in our decisions in cases of (i) *Mohd. Farooq Abdul Ghafoor Chippa vs. State of Maharashtra* in

Criminal Writ Petition No. 1676 of 2022 dated 17th June, 2025 and (ii) *Abdul Shoaib Ibrahim Donkadhagothi & Ors. vs. The State of Maharashtra & Anr.*, in *Criminal Writ Petition No. 1375 of 2025* dated 17th July, 2025.

16) In view of the above, the Writ Petition is allowed in terms of prayer clause (a).

17) The Criminal Case bearing No. 2604264/PW/2022 pending before the learned Judicial Magistrate First Class (26th Court), Borivali, Mumbai, qua the Petitioner is quashed.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)