

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1050 OF 2025

1. Tushar Dhanraj Ranka]
Age 42 years, Occ. Business,]
Nirmala Apartment,]
Mumbai-pune road, Opp.Mayur Hotel]]
Chinchwad, Pune-411019]
2. Darshit Mahendrabhai Soni]
Age 33 years, Occ:business]
A 101 Sokulam Housing Society,]
Patil nagar, Chikli, Pune-411062]
3. Amit Vimalchand Ranka]
Age 40 years, Occ:business]
Flat no. 4, 3rd floor, Visava Sraha]
Rachna, Pune Road, above IDBI Bank]]
Chinchwadi st Pune-411019]
4. Vikas Champatraj Shah]
Age 46 years, Occ:business,]
P-5, Flat No.404, Old Mumbai Road,]
Empire Estate, Chinchwad,]
Pune, City – 411019] ...Petitioners

Vs.

The State of Maharashtra]
Through @]
Panvel Taluka Police Station]
In CR No. 166 of 2023] ...Respondent

Ms. Sana Raees Khan a/w. Ms.Neha Balani for Petitioners.

Smt.Prajakta P. Shinde, A.P.P. for Respondent – State.

Mr.Ananda Harugade, API, Panvel Taluka 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 Petitioners are seeking quashing of S.C.C. No. 4322/2023 pending before the learned Judicial Magistrate First Class (4th Court), Panvel arising out of C.R.No. 166 of 2023, dated 1st July, 2023 registered against them and other accused persons at Panvel Taluka Police Station, District Navi Mumbai, for offences punishable under Sections 294, 188, 34 of the Indian Penal Code, 1860 (for short 'IPC'), Sections 3, 8(1), 8(2) and 8(4) 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 'Prohibition Act'), and Section 33(w) and 131 of the Maharashtra Police Act, 1951 (for short 'Police Act').

2) The FIR came to be registered against Petitioners and other accused persons with an allegation that obscene dances were being performed by females in a Bar known as "Bindas (Sai palace)" owned by Mr.Baburao T. Mhatre and Mr.Raju Shetty, wherein Petitioners were present as customers while the raid was conducted by the police.

3) According to Petitioners, even if the contents of the FIR and the charge-sheet submitted pursuant to investigation are perused, no role is attributable to Petitioners, attracting the offences punishable under Sections

294, 188, 34 of the IPC, Sections 3, 8(1), 8(2) and 8(4) of Prohibition Act read with Section 33(w) and 131 of the Police Act. Learned Advocate for Petitioners reiterated the contention that there were no specific allegations against Petitioners and that the material brought on record, even if accepted to be true, does not make out any offence against Petitioners. On this basis, it was submitted that when the ingredients of the alleged offences were not made out, there was no question of Petitioners being made to face the trial. It is for these reasons that Petitioners seek to invoke extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of Bharatiya Nagarik Suraksha Sanhita, for quashing of the said FIR as against them.

4) The learned Advocate for Petitioners has relied upon the following judgments of this Court to buttress his submissions :-

(i) *Manish Parshottam Rughwani & Ors. V/s. State of Maharashtra* reported in 2024 SCC OnLine Bom 2343,

(ii) *Nirav Raval V/s. State of Maharashtra* reported in 2024 SCC OnLine Bom 2339,

(iii) Order of this Court in case of *Jitendra Ratnakar Kamat vs. The State of Maharashtra & Anr.* in Criminal Writ Petition No.4603 of 2021 dated 6th September, 2022,

(iv) *Rushabh Mehta V/s. State of Maharashtra* judgment delivered in *Criminal Writ Petition (St) No.4799 of 2020*.

5) On the other hand, the learned APP representing the State submitted that, the name of Petitioners are clearly stated in the FIR and the

material collected in the charge-sheet indicates their presence at the spot of incident i.e. the said Bar, where the alleged crime was committed. Therefore the Petition deserves to be dismissed, as the charge-sheet cannot be quashed at this stage.

6) 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 Petitioners that there are no allegations against Petitioners demonstrating that the ingredients of the alleged offences could be said to be present against the Petitioners. The Petitioners are alleged to have committed offences under Sections 294, 188, 34 of the IPC, Sections 3, 8(1), 8(2) and 8(4) of Prohibition Act read with Section 33(w) and 131 of the Maharashtra Police Act, 1951.

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 made directly qua the Petitioners. As regards Section 294 of IPC, there is no allegation in the FIR that, the Petitioners were 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 Petitioners in the FIR and the charge-sheet would not suffice.

8) A bare perusal to Section 188 of IPC clearly indicates that it is attracted when knowing that an order promulgated by public servant, someone disobeys such direction will be liable to be punished. The present Petitioners are arraigned as accused, since they were the customers found in the bar. Hence, in our view Section 188 of IPC would not be attracted to them. Present Petitioners admittedly were just customers in the bar. Therefore, in our opinion they cannot be held liable as that of owner, manager, cashier and waiters. Hence, the ingredients of the said offence under Section 34 of IPC is not attracted qua the Petitioner, he merely being a customer.

9) Also in order to attract Sections 3, 8(1), 8(2) and 8(4) of Prohibition 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 made against Petitioner. Considering the allegation made in the FIR and charge-sheet, in our view, Section 3, Sections 8(1) and 8(2) of the Prohibition Act will not be attracted to the present Petitioners who are alleged to be persons 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 their behalf. As regards Section 8(4), there is no allegation in the FIR that the present Petitioners were 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 Petitioners had touched any woman in the said bar, where the raid was conducted. In our opinion, as regards the provisions of the Prohibition Act, mere mentioning name of Petitioners in the FIR and the charge-sheet would not suffice. As far as Section 33(w) of the Police Act is concerned, the same gets attracted, with licensing or controlling places of public amusement and Section 131 of the Police Act, deals with contravening rules. These Sections admittedly does not apply qua the Petitioners who are not the owners of the bar. Considering the allegation made in the FIR and charge-sheet, in our view, Sections 294, 188, 34 of the IPC, Sections 3, 8(1), 8(2) and 8(4) of Prohibition Act read with Section 33(w) and 131 of the Police Act, would not be attracted to the Petitioners who are alleged to be the persons present in the said restaurant/bar, as customers.

10) 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 Petitioners are covered in the first three clauses thereof, as no case is made out against Petitioners about the alleged offences, even if the FIR and other material on record is accepted. The name of Petitioners are merely mentioned in the FIR and Panchnama as a customer and therefore, the Petition deserves to be allowed.

11) 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.

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

13) The S.C.C. No. 4322/2023 pending before the learned Judicial Magistrate First Class (4th Court), Panvel arising out of Charge-sheet No. 224 of 2023, dated 11th September, 2023, qua the Petitioners is quashed.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)