

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 328 OF 2025

Mr. Sachin Dattaram Kadam	}	
Aged 39 Years, Occu. : Business,	}	
R/o. Near Sarvajnik Ganesh Utsav Mandal,	}	
Room No. 13, Haji Chawl,	}	
Sahyadri Nagar, Bhandup (W),	}	
Mumbai- 400 078	}	... Applicant
	}	
<i>Versus</i>	}	
	}	
State of Maharashtra	}	
(At the instance of Andheri Police Station)	}	... Respondent

Mr. G. L. Dalvi a/w Ms. Yogita V. Gogar, for the Applicant.

Mrs. P. P. Shinde, Addl. P.P., for the Respondent- State.

Mr. Vinod Patil, Police Inspector, Andheri Police Station, Mumbai,
is present.

**CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.**

DATE : 26TH NOVEMBER, 2025.

JUDGMENT (Per Sandesh D. Patil, J.) :-

1. Heard learned Counsel for the Applicant and learned
Addl.P.P. for the Respondent -State.

2. **Rule.** Rule is made returnable forthwith with consent of both the parties and is taken up for final disposal. Learned Addl.P.P. waives notice on behalf of the Respondent- State.

3. By this Application, the Applicant is seeking to quash the First Information Report bearing No.48/2019 dated 11.04.2019 registered with the Andheri Police Station as well as the chargesheet and the proceeding, bearing C.C. No.3183/PW/2019, pending before the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai.

4. The First Information Report bearing No.48/2019 was lodged on 11.04.2019 under the provisions of Sections 3 and 8 of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (working therein) Act, 2016 (hereinafter referred to as “**the Prohibition Act**”) and Section 131 of the Maharashtra Police Act. The first informant was working in the police department. It is

alleged that the first informant had received certain information that in a hotel named Durga Prasad (Mayuri Restaurant and Bar), Sahar Road, Kol Dongri, Andheri (East), Mumbai, singers/waitresses were being forced to dance and perform obscene and illicit dance, and that the restaurant owner, manager, cashier and staff were inciting the female bar dancers to perform obscene and illicit dance. Pursuant to the information received, the raid was conducted and the persons named in the First Information Report were accosted along with certain electronic accessories. The First Information Report was registered with the Andheri Police Station bearing No.48/2019 on 11/04/2019 under the provisions of the sections 3 and 8 of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (working therein) Act, 2016 and Section 131 of the Maharashtra Police Act.

5. After investigation was carried out, the police filed chargesheet under the provisions of section 173 of the Cr.P.C. The present Applicant is chargesheeted. The Applicant approached this

Court on the ground that on a bare perusal of the FIR and the chargesheet, no offence is disclosed against him. He stated that the statements of witnesses recorded in the said chargesheet do not even remotely suggest that the Applicant was indulging in the offences under the provisions of Sections 3 and 8 of the Prohibition Act, 2016. So, also, no offence can be said to have been committed by him under section 131 of the Maharashtra Police Act. It is the contention of the Applicant that he was merely present in the bar and that he had not indulged in any illegal activity as contemplated in the aforesaid sections. The learned Counsel for the Applicant contended that the statement of witnesses which are recorded do not suggest any involvement of the Applicant in the said offence.

6. The learned Addl.P.P. appearing for the Respondent, argued that the chargesheet is filed and that the name of the Applicant is appearing in the First Information Report as well as in the statement of the witnesses which are recorded. She states that no grounds of whatsoever nature are made out for the purpose of

quashing of the F.I.R. as well as the chargesheet. She further states that full-fledged trial is necessary and that the application of the Applicant be dismissed in its entirety.

7. We have heard the learned Counsel for the parties and with their help and assistance, we have perused the documents placed on record, more particularly the chargesheet filed by the Respondent- State.

8. The Applicant, undoubtedly, is named as an accused in the said chargesheet. We have perused the statement of the witnesses which are recorded in the said chargesheet. The said witnesses are as under:

- i. Hansraj Ramesh Kengar, Police Constable
- ii. Raju Hansraj Khairnar, Police Constable
- iii. Dilip Rajaram Indap, API
- iv. Smt. Dipti Premdas Chavan, Police Constable
- v. Uttam Mahadu Mahajan, Police Constable

9. The statements of all the witnesses are stereotype and on perusal of the statement, what is revealed is that the police personnel had raided the bar and, in that bar they found that the following persons were blowing/throwing notes towards the dancers:

- i. Malik Rafiq Chauhan
- ii. Samar Pramesh Jain
- iii. Dharamveer Navrangram Pachaar
- iv. Sanjay Dattatray Torpe

10. The said witnesses thereafter state that the police seized the electronic devices from the bar. They also state in the statement that the manager as well as the cashier of the said bar were accosted. They have further stated that certain dancers, whose names are mentioned in the statements were dancing, and thereafter they have mentioned that there were certain customers sitting in the said bar. The name of the petitioner is at Sr. No. 6 in the list of customers who was sitting in the said bar.

11. Admittedly, in the present case, no allegation of whatsoever nature is made against the Applicant under the provisions which would constitute the offence under the provisions of Sections 3 and 8 of the “Prohibition Act” or section 131 of the Maharashtra Police Act. The Applicant was merely a customer when the bar was raided. Merely mentioning the name of the Applicant in the F.I.R. and chargesheet is not sufficient to attract the said provisions. None of the witnesses have stated that the Applicant was blowing/throwing notes at the bar dancers. There is no allegation that the Applicant had touched any woman in the said bar. All that the witnesses say uniformly throughout is, that the Applicant was present in the bar. It is a settled law that mere presence of the Applicant in the bar would not be sufficient to attract the provisions of Sections 3 and 8 of the Prohibition Act. This Court in several matters has taken a view that mere presence at the spot where the ladies were dancing allegedly in an obscene manner in the bar, is not sufficient for the purpose of invoking the said offences. This Court in the matter of *Nirav Rawal and Others v. State of Maharashtra and Anr.*, [(2024) SCC OnLine Bom 2339],

as well as in the matter of *Manish Parshottam Rughwani and Others v. State of Maharashtra*, [(2024) SCC OnLine Bom 2343] have held that without there being any specific overt-act attributed to the accused, the accused could not be prosecuted under the provisions of Sections 3 and 8 of the Prohibition Act and Section 131 of the Maharashtra Police Act.

12. The learned Addl. P.P. was not in a position to point out any specific overt-act against the Applicant.

13. On a plain reading of the F.I.R. and the chargesheet, we are of the considered opinion that only because the accused was present at the spot was not sufficient to prosecute him under the provisions of Sections 3 and 8 of the Prohibition Act and Section 131 of the Maharashtra Police Act. Resultantly, we are inclined to allow the said criminal application. The Application accordingly succeeds.

14. The F.I.R. bearing No.48/2019 dated 11/04/2019 registered with the Andheri Police Station for the offences of Sections 3 and 8 of the Prohibition Act and Section 131 of the Maharashtra Police Act, the chargesheet and the proceeding bearing C.C. No. 3183/PW/2019 pending before the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai are hereby quashed and set aside.

15. Rule is made absolute in the above terms.

16. The Criminal Application No. 328 of 2025 is allowed and stands disposed of.

17. All concerned parties to act upon an authenticated copy of this Order.

(SANDESH D. PATIL, J.)

VDMokal

(REVATI MOHITE DERE, J.)