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Crl.O.P.No.13630 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 13630 of 2025 and
Crl.M.P.No.9048 of 2025

J.Pradeepson

.... Petitioner

Vs

1.The State rep. by,
The Inspector of Police,
Perundurai Police Station,
Erode District.

2.Prakash

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.88 of 2025 pending on the file of learned Judicial Magistrate, Perundurai and quash the same.

For Petitioner : Mr.D.Bharathy

For R1 : Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER

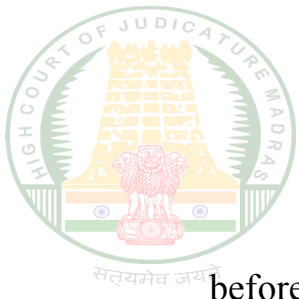


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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.88 of 2025 pending on the file of learned Judicial Magistrate, Perundurai.

2. The case of the prosecution is that on 26.07.2024 at 13:30 hrs., the petitioner along with other accused persons allegedly operated a prostitution business under the guise of a massage center in a building near Le Castle Inn Resort, close to Government Polytechnic College, Perundurai, on the Salem National Highway. The premises belonged to the petitioner (A4), who is alleged to have knowingly permitted the use of his property for this activity and received income from it. The prosecution further alleges that A1 to A3 induced the individuals, namely, Papathi, Kavitha, Savita, and Raji, to engage in prostitution and collected Rs. 3000/- from the second respondent in connection with this act. Based on this incident, the first respondent registered a case in Crime No.552 of 2024 for the offences punishable under Sections 3(2)(a), 4(2)(c), and 5(1)(a) of the Immoral Traffic (Prevention) Act, 1956. After completion of investigation, the first respondent filed the final report



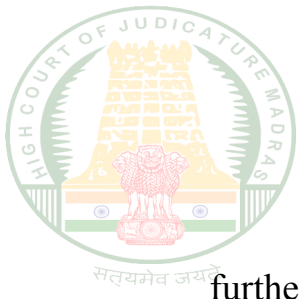
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before learned Judicial Magistrate, Perundurai and the same was taken cognizance in C.C.No.88 of 2025.

3. The learned counsel for the petitioner submitted that the petitioner, who is the owner of the premises, had no knowledge of the alleged illegal activities purportedly carried out in the rented property. It was argued that merely being the owner of the building does not automatically attract criminal liability, especially when there is no direct evidence to prove that the petitioner had knowledge or intentionally permitted such activities. The learned counsel contended that the petitioner has been falsely implicated and that continuation of criminal proceedings would amount to an abuse of process of law. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (crl.side) opposed the quash petition and submitted that there are specific and direct allegations as against the petitioner. It was pointed out that the FIR and final report clearly state that the petitioner knowingly permitted the premises to be used for prostitution and also earned income from the proceeds. It was



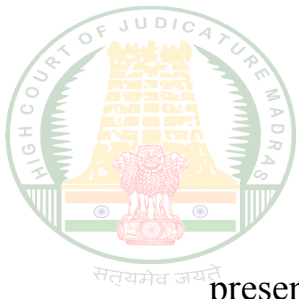
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further submitted that the investigation materials support the allegation that the petitioner was aware of the nature of the business run in the premises and was complicit in allowing such illegal activities. Hence, he prays for dismissal of this petition.

5. Heard both sides and perused the materials placed before this Court.

6. This Court, after perusing the FIR, final report, and materials on record, noted that there are specific allegations as against the petitioner (A4), particularly that he knowingly permitted the premises to be used for prostitution and shared in the income derived from such activities. This Court observed that these allegations, at this stage, cannot be considered vague or baseless and are sufficient to proceed to trial. The question as to whether the petitioner had knowledge or active participation is a matter to be tested during trial based on evidence. It is well settled that the power under Section 528 of BNSS., is to be exercised sparingly and only in cases where there is a clear abuse of process or when the allegations do not disclose any offence. In the



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present case, since a *prima facie* case is made out as against the petitioner, this Court finds no grounds to quash the proceedings.

7. The Hon'ble Supreme Court of India, in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh vs. State of Bihar & Anr. (Criminal Appeal No.579 of 2019, dated 02.04.2019)***, while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the statements of witnesses and record a finding that there were inconsistencies in their statements, and therefore, no *prima facie* case was made out against the accused. Such an exercise can be done only by the Trial Court while deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

8. Further, the Hon'ble Supreme Court of India, in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of***

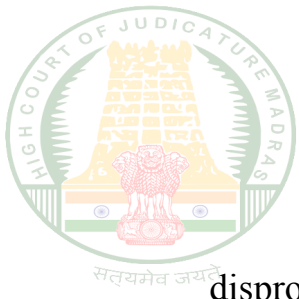


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Investigation vs. Arvind Khanna (Criminal Appeal No.1572 of 2019, dated 17.10.2019), held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after appreciation of evidence by the Trial Court during trial. Therefore, this Court has no power to consider disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. The Hon'ble Supreme Court of India, in another judgment ***dated 02.12.2019*** passed in ***Criminal Appeal No.1817 of 2019*** in the case of ***M. Jayanthi vs. K.R. Meenakshi & Anr.***, held that while considering a petition for quashing a complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of. Further, the Court can also examine whether the preconditions required for taking cognizance have been complied with, and whether the allegations contained in the complaint, even if accepted in their entirety, would constitute the offence alleged. Whether the accused will be able to



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disprove the allegations is a matter to be determined during trial.

10. Further, this Court cannot, at this stage, observe that the initiation of criminal proceedings is malicious. Whether the proceedings are malicious or not is a matter to be considered only at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained for quashing the entire proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.88 of 2025 pending on the file of learned Judicial Magistrate, Perundurai. The petitioner is at liberty to raise all the grounds before the Trial Court. The Trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.



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12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

30.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
shk

To

1.The Judicial Magistrate, Perundurai.

2.The Inspector of Police,
Perundurai Police Station,
Erode District.

3. The Public Prosecutor, High Court, Madras.

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Crl.M.P.No.9048 of 2025