



Crl.A.No.1320 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYAN

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State of Tamilnadu rep. by
The Inspector of Police,
Reddychavadi Police Station,
Cuddalore District.

...Appellant

Vs.

1.Satharmulla
2.Najmulsikthar
3.Babushek
4.Selvam @ Kavin
5.Dhanush

...Respondents

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C./Section 419 of BNSS to set aside the order of acquittal dated 26.03.2024 made in S.C.No.234 of 2021 on the file of the learned Sessions Judge, Mahila Court, Cuddalore and convict the accused.

For Appellant : Mr.A.Damodaran,
Additional Public Prosecutor

For Respondents : Mrs.N.Premalatha
for R4 & R5



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JUDGMENT

(Judgment of the Court was delivered by M.S.RAMESH,J.)

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The appellant/Investigation Officer had laid a charge sheet before the Trial Court against the respondents herein, who were arrayed as accused 1 to 3, 6 and 7, charging them of having committed the offences under Sections 3(2)(a), 4(1), 5(1)(a), 5(1)(d) and 7(1)(a) of the Immoral Traffic Act, 1956, Sections 465 and 468 of Indian Penal Code (IPC), as well as Section 14-A read with Section 3(2)(a) of the Foreigners Act, 1946.

2. In order to substantiate their case before the Trial Court, the prosecution had examined 11 witnesses P.W.1 to P.W.11 and marked 9 documentary evidences Ex.P.1 to Ex.P.9, apart from 38 material objects M.O.1 to M.O.38. On the side of the accused, no witnesses or documents were marked.

3. On the strength of the oral and documentary evidences, the Mahila Court, Cuddalore, through its judgment dated 26.03.2024 passed in S.C.No.234 of 2021, had found the accused guilty for the following offences and convicted them as follows:-



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<i>Rank of the Accused</i>	<i>Conviction</i>	<i>Sentence imposed</i>
A1 to A3	Section 465 of IPC	2 years rigorous imprisonment, together with a fine of Rs.5,000/-
	Section 468 of IPC	3 years rigorous imprisonment, together with a fine of Rs.5,000/-
	Section 14-A r/w 3(2)(a) of Foreigners Act	3 years rigorous imprisonment, together with a fine of Rs.10,000/-
A4 & A5	Section 14-A r/w 3(2)(a) of Foreigners Act	3 years rigorous imprisonment, together with a fine of Rs.10,000/-
A6 & A7	Sections 3(2)(a), 4(1), 5(1)(a), 5(1)(d) and 7(1)(a) of the Immoral Traffic Act, Sections 465 and 468 of IPC and Section 14-A r/w 3(2)(a) of the Foreigners Act	Acquitted from all charges

4. All the aforesaid sentences were ordered to run concurrently. The said judgment of the Trial Court is challenged in this appeal, predominantly to establish the offences under the Immoral Traffic Act.

5. Mr.A.Damodaran, learned Additional Public Prosecutor for the appellant-State, submitted that P.W.2, during the cross examination, had testified that A6 and A7 had escaped during the raid conducted by them on 03.07.2021, which was witnessed by P.W.2, P.W.3 and P.W.4. In view



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of the confirmation of the presence of A6 and A7 at the brothal house, he submitted that the Trial Court ought to have convicted these accused. It is his further submission that P.W.3 was an eye witness to the incident and his testimony is cogent with regard to the raid conducted by the Police.

6. Per contra, Mrs.N.Premalatha, learned counsel appearing for A6 and A7/4th and 5th respondents herein, submitted that no independent witnesses were examined by the prosecution to establish the charges. According to her, among the 11 witnesses, P.W.1 to P.W.7 and P.W.11 are all Police officials. The only independent witnesses, namely P.W.8 to P.W.10, were mahazar witnesses, who neither knew about the incident nor the identity of the accused. It is her further submission that P.W.11/Investigation Officer had admitted of a previous motive when he conducted a raid and seized material objects from the beauty parlour, owing to which A6 had given a complaint to the Superintendent of Police, Cuddalore, based on which, the Investigation Officer was directed to return the seized articles. Since the Investigation Officer had admitted this occurrence during the cross examination, the learned counsel submitted that the entire investigation is clouded with motive and these accused were innocent and were unnecessarily roped in. By



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referring to the oral evidences of P.W.8 to P.W.10, she submitted that since none of them knew about the incident nor the identity of the accused, they do not lend any help to substantiate the charge and it would be highly unsafe to place reliance on the evidences of other Police officials alone and record their guilt.

7. We have given our anxious consideration to the submissions made on either side.

8. As pointed out by the learned counsel for the respondents 4 and 5, among the 11 witnesses examined by the prosecution before the Trial Court, P.W.1 and P.W.2 are the Sub-Inspectors of Police, P.W.3 and P.W.4 are the Special Sub-Inspectors of Police, P.W.5 is the Head Constable from a neighbouring Police Station, PW.6 and P.W.7 are the Women Head Constables attached to the Police Station, whereas P.W.11 is the Investigation Officer. From the evidences of P.W.1 to P.W.7, what could be deduced at the most is that all of them conducted a raid at the premises of the accused on 03.07.2021 at 10.00 A.M. and seized certain articles. As per their testimony, A6 and A7 had made arrangements for renting the house to the other accused for doing prostitution.



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9. P.W.11, in his testimony, had categorically admitted that the wives of A6 and A7 were running a beauty parlour at the border of Puducherry. In this connection, when A6 had given a complaint to the Superintendent of Police, Cuddalore District, with regard to the seizure of certain articles from the beauty parlour, as well as in the houses of A6 and A7, he, along with A6, were summoned by the Superintendent of Police and P.W.11 was directed to return the seized articles. He had also admitted in the cross examination that though there was a previous incident by which he could have developed animosity with A6 and A7, he had not taken any steps to recuse himself from the investigation, but had chosen to file the charge sheet.

10. Insofar as the evidences of P.W.8 and P.W.10 are concerned, P.W.8 is a witness to the rough sketch prepared by P.W.11; P.W.9 is a witness to the seizure mahazar of the material objects and P.W.10 is a witness to the confession statement. Curiously, A1 to A5 are all citizens of Bangladesh, who were acquainted only with Hindi language. The Investigation Officer has taken the aid of P.W.5, who is a Head Constable from the neighbouring Police Station and had recorded the translated



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version of the confession statements given in Hindi language by them.

Even this translator happens to be a Police official and we fail to understand as to how such a translation could not have been obtained from an independent witness.

11. The learned counsel appearing for the respondents 4 and 5 had suggested the possibility of the Investigation Officer having an animosity against A6 and A7, in view of the earlier incident, whereby he had raided and seized certain articles from the beauty parlour belonging to the wives of A6 and A7. In view of this particular admission, the evidence of the Investigation Officer requires to be carefully and scrupulously analysed, apart from finding corroboration from the other witnesses in hand. Except for P.W.11, the other two Police officials, namely P.W.1 and P.W.7, had only spoken about the raid, which was conducted on that particular day at the house of the accused and seized certain articles.

12. Insofar as the culpability of the crime against the accused for the offences under the Immoral Traffic Act is concerned, except for the confession statement, there are no other evidences produced before the Trial Court to charge them for the said offences. Thus, when the



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prosecution had failed to produce even a single independent witness to substantiate the charges against the accused for the offences under the Immoral Traffic Act, it would be highly unsafe to record the guilt of the accused only on the basis of the oral evidences of these Police officials. In our view, the Trial Court had properly appreciated these aspects and had acquitted the accused from the offence under the provisions of the Immoral Traffic Act.

13. The learned Additional Public Prosecutor placed reliance on the decision of the Hon'ble Supreme Court in the case of **Baldev Singh Vs. State of Haryana** reported in (2015) 17 SCC 554, for the proposition that evidence of Police witnesses cannot be discarded, merely on the ground that they belong to Police force and interested in the investigation and their desire to see the success of the case. In the said judgment, it has been recorded that there is no legal proposition that the evidence of Police officials, unless supported by independent evidence, is unworthy of acceptance. However, in paragraph 10 of the same judgment, it has been held that, prudence however requires that the evidence of Police officials, who are interested in the outcome of the result of the case, needs to be carefully scrutinised and independently appreciated. If such



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careful scrutiny is made to the evidences let in by the prosecution before the Trial Court, we have no difficulty in coming to the conclusion that the Investigation Officer may have a serious animosity against A6 and A7, since he was summoned by the Superintendent of Police, Cuddalore, at their instance and the articles seized by him in the earlier raid were also directed to be returned.

14. The other evidences of the Police officials, namely P.W.1 to P.W.6, only speak about the raid conducted and does not fix the culpability of the crime on the accused. Thus, we are of the affirmed view that it would be highly unsafe to place reliance only on the evidences of the Police officials and record a finding of guilt.

15. In the result, we do not find any valid or legal grounds to interfere with the judgment of the Trial Court. Accordingly, the Criminal Appeal stands dismissed.

[M.S.R.,J] [V.L.N.,J]
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Index: Yes/No
Neutral Citation: Yes/No
Speaking order/Non-Speaking Order
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