



Crl.O.P.(MD) No.3657 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.09.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.3657 of 2024

and

Crl.M.P.(MD) No.2880 of 2024

1.B.Manju

2.A.Balasubramanian

3.V.Manikandan

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Aralvoimozhi Police Station,
Kanyakumari District.
(Crime No.177 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the impugned FIR in Crime No.177 of 2023 pending on the file of the respondent police and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.A.Mohamed Haneef

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.177 of 2023 on the file of the respondent police, registered against the petitioners for offences punishable under Sections 3(2)(a), 4(2)(c), 5(1)(a), and 7(1)(a) of the Immoral Traffic (Prevention) Act, 1956.

2. The allegation against the petitioners in the FIR is that they, along with another lady, were found in a house under suspicious circumstances, and on enquiry, they informed the Inspector of Police that they had indulged in prostitution on the instigation of two agents, and that a sum of Rs.12,500/- was found in the house during the search.

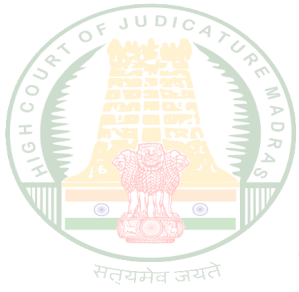
3. The learned counsel for the petitioners would submit that the impugned FIR is an abuse of process of law; that in any case, the proceedings cannot be sustained since the respondent had not complied with the mandatory provisions under Section 15 of the Immoral Traffic (Prevention) Act, 1956, inasmuch as the search was not conducted pursuant to a warrant and no reason has been assigned for dispensing with the requirement of a warrant; that the respondent police had not sought the



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assistance of two respectable members of the locality to witness the search; that the issue is directly covered by several judgments of this Court, including the judgment in ***Balu @ Balasubramanian v. The State rep. by the Inspector of Police, Reddiarpalayam Police Station, Puducherry District***, dated 18.02.2021, rendered in Crl.O.P.No.30001 of 2019, and the judgment in ***Haja Nawaz v. The State rep. by the Inspector of Police, Kottar Police Station, Kanyakumari District***, dated 13.04.2022, rendered in Crl.O.P.(MD) No.15214 of 2021; that in view of the violation of the mandatory provisions, no purpose would be served in allowing the respondent to conduct the investigation and proceed with the case; and that the Inspector of Police is neither the Special Police Officer nor the Trafficking Police Officer as required under Section 15 of the Act.

4. Heard the learned Government Advocate (Criminal Side) for the respondent, who is unable to justify the action of the respondent in conducting a search without a warrant and would submit that the Inspector of Police is neither the Special Police Officer nor the Trafficking Police Officer. He would also submit that the search was not conducted in the presence of two respectable members of the locality to witness the search.



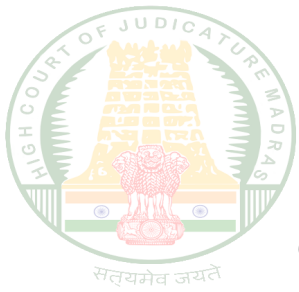
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5. In the light of the undisputed position that the mandatory provisions under Section 15 of the Act have not been complied with, the question is whether the further proceedings can be allowed to continue. This Court, in similar circumstances, had quashed the FIR in ***Haja Nawaz v. The State rep. by the Inspector of Police, Kottar Police Station, Kanyakumari District***, dated 13.04.2022, rendered in Crl.O.P.(MD) No. 15214 of 2021, after referring to the judgment of this Court in ***Kadek Dwi Ani Rasmini and others v. K. Natarajan and others***, reported in 2019 (1) LW (Crl) 94, with the following observations:

“7. In the case on hand, the inspection was not carried out by the Special Police Officer or the Trafficking Police Officer and the Officer who carried out the inspection, was not an authorized officer under Section 15 of the Act.

8. This Court has time and again held that if the search and inspection is not carried out by following the procedure prescribed under Section 15 of the Act, the entire proceeding becomes illegal in the eye of law.

9. In view of the above observations, the entire proceeding itself is vitiated and this Court has no hesitation to interfere with the proceedings in Crime No. 81 of 2021 dated 23.02.2021 on the file of the first respondent and same is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.”



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6. This Court, in yet another case in ***Balu @ Balasubramanian v.***

The State rep. by the Inspector of Police, Reddiarpalayam Police

Station, Puducherry District, dated 18.02.2021, rendered in Crl.O.P.No.

30001 of 2019, had observed as follows:

“9. In the present case, the inspection was not carried out by the Special Police officer or the Trafficking Police Officer and the Officer who carried out the inspection, was not an authorized Officer under Section 15 of the Act.

10. This Court has time and again held that if the search and inspection is not carried out by following the procedure prescribed under Section 15 of the Act, the entire proceedings becomes illegal in the eye of law. This is yet another case where the respondent Police failed to follow the mandatory procedure under Section 15 of the Act.

11. This ground by itself will vitiate the proceedings and therefore, this Court has no hesitation to interfere with the proceedings in STC No. 888 of 2019 on the file of the Judicial Magistrate No.III, Puducherry and the same is hereby quashed, insofar as the petitioner is concerned and this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.”

7. A similar view was taken by this Court in ***Manikandan v. The Inspector of Police, Thilagar Thidal Police Station, Madurai City and another***, dated 09.11.2020, rendered in Crl.O.P.(MD) No.17180 of 2019



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and in ***C.Karthick v. The Inspector of Police, Thilagarthidal Police***

Station, Madurai City, dated 21.09.2023, rendered in Crl.O.P.(MD) No. 18066 of 2022.

8. Though the challenge in the above cases, except in Crl.O.P.(MD) No.18066 of 2022, pertained to the final report, this Court is of the view that it would hardly make any difference, as failure to comply with the mandatory provisions would vitiate the entire proceedings. Hence, this Court is inclined to quash the impugned FIR. Accordingly, the impugned FIR is quashed.

9. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

1.The Inspector of Police,
Aralvoimozhi Police Station,
Kanyakumari District.



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2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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