



Crl.OP(MD)No.17554 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2025

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THE HONOURABLE **Mr.JUSTICE SUNDER MOHAN**

Crl.OP(MD)No.17554 of 2025 &
Crl.M.P.(MD)Nos.14297 & 14298 of 2025

Palaniyappa Perumal

... Petitioner

Vs.

1.State of Tamil Nadu, Represented by
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,
Tirunelveli.
(Crime No.386 of 2021)

2.Chandra,
Sub-Inspector of Police,
Tirunelveli City,
Tirunelveli.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS to call for the records pertaining to the impugned proceedings in C.C.No. 161 of 2022 on the file of the Judicial Magistrate Court No.I, Tirunelveli and quash the same as against the petitioner / accused no.2 is concerned.

For Petitioner : Mr.C.Saravanakumar

For respondents : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor
for R1



ORDER

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This Criminal Original Petition is filed to quash the impugned final report for the offences under sections 3(1), 3(2)(b), 4(2)(a), 4(2)(c), 5(1)(a) and 5(1)(c) of Immoral Traffic (Prevention) Act, 1956.

2. The allegation in the final report is that the petitioner arrayed as A2 along with other accused was running a brothel in a hotel and thus, committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that this Court had quashed the impugned final report as against A1 on the ground that the officer who conducted the search is not an authorised officer and that insofar as this petitioner is concerned, additionally, two other mandatory provisions i.e, Sections 15(1) and 15(2) of the Immoral Traffic (Prevention) Act, 1956 [hereinafter referred to as 'the Act'] have been violated and hence the impugned prosecution is liable to be quashed.



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4. The learned Additional Public Prosecutor appearing for the first respondent, submitted that the first respondent Police had conducted a search without a warrant and that the grounds of belief for entering into the premises without a warrant has also not been recorded and that since no inhabitants were available, the search was conducted by the police party; and that the points raised by the petitioner can be agitated only during the trial and sought for dismissal of the quash petition.

5. This Court has repeatedly held that the provisions of Section 15 of the Act are mandatory in nature. Any search conducted in violation of any of the provisions in Section 15 of the Act would render the search illegal and the consequential prosecution is unsustainable. This Court in *Kadek Dwi Ani Rasmini and others vs. K.Natarajan and others* reported in 2019(1) LW CrI.94 has held as follows:-

*“28. A careful look at the provisions of Section 15 would show that a Special Police Officer or a Trafficking Police Officer can enter upon any premises and cause a search without warrant, only after satisfying the following:—
(i) he should have reasonable grounds for believing that an offence punishable under this Act has been or is being committed;*



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(ii) he must believe that such an offence is committed in respect of a person living in the premises;

(iii) he should believe that the search of the premises with warrant cannot be made without undue delay; and

(iv) he must record the grounds of his belief before entering the premises.

29. The expression “Special Police Officer” is defined in Section 2(i) of the Act, to mean a Police Officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act. Similarly, the expression “Trafficking Police Officer” is defined in Section 2(j) to mean a Police Officer appointed by the Central Government under Section 13(4). I do not know and I have not come across any such Trafficking Police Officer appointed by the Central Government in terms of Section 13(4), at least in the State of Tamil Nadu.

30. Under Sub-section (2) of Section 15, the Special Police Officer or the Trafficking Police Officer should also call upon two or more respectable inhabitants, at least one of whom should be a woman of the locality in which the place to be searched is situate, to attend and witness the search. For the purpose of enforcing the attendance of such respectable inhabitants, the Police Officer is obliged to issue an order in writing to them. If the person, who is called upon to attend and witness the search, refuses or neglects to comply with the notice, despite an order in writing being delivered to him, he is liable to be punished for an offence under Section 187 of the IPC, by virtue of Sub-section (3) of Section 15. An immunity is granted under Sub-section (6) of Section 15 to persons taking part in or attending and witnessing a search, from any civil or criminal proceedings in respect of anything lawfully done in connection with the search.

31. The Special Police Officer or the Trafficking Police Officer, who makes a search, should be accompanied by at least two women Police Officers. If any woman or girl is removed under Sub-section (4) from the premises of



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search, she could be interrogated only by the woman Police Officer.

32. Day in and day out, newspapers compete with each other in publishing reports along with photographs of girls, whenever any search is carried out under Section 15 of the Act and any woman is removed from a place. The website of the National Crime Records Bureau shows that a total of about 2,44,270 incidents of crime against women were reported in the whole country during the year 2012. Out of them, about 2563 constitute cases under the Immoral Traffic (Prevention) Act, 1956. Interestingly, 19.5% of such cases (about 500 cases out of those 2563 cases) were reported only in Tamil Nadu. This can be taken either as an indication that incidents of crime under the said Act is on the increase in Tamil Nadu or as an indication of the role played by the Police in the State of Tamil Nadu in taking the crimes under this Act more seriously than what their counterparts in the other States do.

33. Unfortunately, no accountability is fixed on the police to see whether all the requirements of Section 15 are complied with or not. No one calls upon the Special Police Officer or the Trafficking Police Officer (i) to produce records to show whether he has minuted the grounds of his belief that an offence punishable under the Act is committed or has been committed in respect of a person living in any premises, (ii) to produce records to show his subjective satisfaction that the search of the premises with warrant cannot be made without undue delay, (iii) to produce records to show whether two respectable inhabitants of the locality attended and witnessed the search, (iv) to show whether persons removed from such premises were subjected to medical examination and produced before the appropriate Magistrate immediately, and (v) to produce proof to show that two women Police Officers accompanied them and the interrogation of any woman was done only by them.



34. Many times, even persons who are booked under the provisions of this Act, do not appear to challenge the procedure adopted. This is perhaps due to the fact that in most of the cases, the Police find it convenient to book a person only for an offence under Section 8, which is punishable on first conviction, either with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 5,000/-. Therefore, it appears that people choose to plead guilty and pay the fine even on the first occasion and get off, instead of going through the mill, by facing the prosecution and challenging the procedure followed by the Police. The remedy is seen as worse than the disease.

36. Therefore, the only presumption that I can draw is that as against the writ petitioners herein, the Police did not carry out a search by following all the steps prescribed in Section 15. When the mandate of the law is so clear in Section 15, the respondents cannot carry out a search de hors Section 15.

37. The conclusion that we can arrive at, on the basis of the above discussion, is two fold. If the Police carry out a search of the premises where the petitioners are carrying on business activities, after following all the steps prescribed in Section 15, the petitioners cannot come under Article 226, but may have to seek redressal somewhere else. But, if the respondents are in the habit of carrying out searches in a manner not prescribed by Section 15, then the same actually tantamount to an unlawful interference with the fundamental right of the petitioners to carry on any business or profession which is not declared as unlawful by any legislation.”

6. Admittedly in this case, the first respondent Police have not recorded the grounds of belief as to why the search of the premises with



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warrant cannot be made without undue delay. Further, they have also not justified the non-examination of two respectable inhabitants of the locality for witnessing the search.

7. In view of the above violation of mandatory provisions, this Court is of the view that no useful purpose would be served in keeping the final report pending and hence, the final report in C.C.No.161 of 2022 on the file of the Judicial Magistrate Court No.I, Tirunelveli quashed and this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

03.11.2025

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To

1.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,
Tirunelveli.

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



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SUNDER MOHAN, J.

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