



Crl.O.P.(MD)No.18737 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.18737 of 2025

and

Crl.MP.(MD).Nos.15521 and 15522 of 2025

Lawrance

... Petitioner/3rd Accused

Vs.

1.State of Tamilnadu, Rep. by,
The Inspector of Police,
Vadaseri Police Station,
Nagercoil,
Kanyakumari District.
(In Crime No.216 of 2025)

... 1st Respondent/Complainant

2.Johnson,
The Sub Inspector of Police,
Vadaseri Police Station,
Nagercoil,
Kanyakumari District.

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned charge sheet in C.C.No.811 of 2025 pending on the file of the Learned Judicial Magistrate No.II, Nagercoil and quash the same as illegal in respect of the petitioner

For Petitioner : Mr.M.Pozhilan
for Mr.L.George Paul Anto



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For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

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ORDER

The petitioner seeks to quash the impugned final report in C.C.No.811 of 2025 pending on the file of the Learned Judicial Magistrate No.II, Nagercoil, which was filed for the offences under Section 3(1), 3(2)(b), 4(2)(c), 5(1)(a) and 7(1)(a) of Immoral Traffic (Prevention) Act, 1956.

2. The allegation in the final report is that when the second respondent/Sub Inspector of Police was standing in the bus stand, the first accused approached him and offered him sexual services at a lodge belonging to the petitioner/third accused; that when the second respondent enquired whether there would be any issues, the first accused told him that the owner and manager of the lodge were aware of the prostitution; that the fourth accused was involved in prostitution with the first accused and thus, they committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that an FIR was lodged by the Inspector of Police after he had received a report from the Sub Inspector of Police that the petitioner is carrying on prostitution activities in his



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lodge; that the first respondent has violated the mandatory provisions under Section 15 of Immoral Traffic (Prevention) Act; that eight witnesses have been cited by the prosecution; that except for L.W.6 and L.W.7, who are observation mahazar witnesses, the other witnesses are police officials; and that the impugned prosecution is an abuse of process of law and liable to be quashed. The learned counsel relied upon the orders of this Court in the case of ***B.Manju and others Vs. The State*** in ***Crl.O.P(MD).No.3657 of 2024 dated 11.09.2025*** and ***Balu @ Balasubramanian Vs. The State*** in ***Crl.O.P.No.30001 of 2019 dated 18.02.2021*** in support of his submission that if the mandatory provisions are violated, the prosecution has to fail.

4. The learned Additional Public Prosecutor, per contra, submitted that the prosecution is not only based on the search conducted, but also on the basis of the report given by the Sub Inspector of Police; that therefore, the impugned prosecution cannot be quashed only because the mandatory provisions have been violated; and that in any case, the State Government has issued a Circular notifying all the Inspectors as Special Police Officers.

5. The FIR, as submitted by the petitioner, was lodged by the Inspector of Police attached to the respondent Police Station after they had received a report



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from the Sub Inspector of Police and conducted a search in the petitioner's lodge. The offences alleged against the petitioner are that he was involved in prostitution and used his premises as a brothel.

6. Though the law in this case was set in motion on the report of the Sub Inspector of Police, the first respondent conducted a search in the premises. Section 15 of the Immoral Traffic (Prevention) Act provides for search without warrant only if there are reasonable grounds to believe that a search of the premises with warrant cannot be made without undue delay and that the grounds of belief have to be recorded. Admittedly, in this case, the search was conducted without a warrant and the grounds of belief, as to why the premises have to be searched without undue delay and without warrant, have not been recorded. Therefore, Section 15(1) of the Act has been violated.

6.1. That apart, Section 15(2) provides that the search must be done in the presence of two or more respectable inhabitants of the locality, of whom, one shall be woman, to witness the search. Though there is an averment that none was willing to act as witness, this Court is of the view that the said averment has been made in a routine manner and there is no reference as to the effort taken by the first respondent to call upon two respectable inhabitants of



the locality. The above safeguards, it is needless to say, have been provided only to ensure that the privacy of individuals is not violated at the whims and fancies of the Police.

7. This Court, in several cases, had held that the provisions of Section 15 of the Immoral Traffic (Prevention) Act are mandatory in nature. In the case of ***S.Rangaraj Vs. The Commissioner of Police, Chennai City, Chennai-8*** reported in ***2015 1 LW 77***, this Court had 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;

(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.



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8. This Court in the case of ***Balu @ Balasubramanian Vs. The State rep.***

by the Inspector of Police, Reddiyarpalayam Police Station, Puducherry

District in ***Crl.O.P.No.30001 of 2019 dated 18.02.2021***, had held as follows:

“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.”

From the above observations, it is seen that if search and inspection was not carried out by following the procedure under Section 15 of the Act, the entire proceedings would be vitiated. Therefore, this Court is of the view that the impugned prosecution cannot be sustained and liable to be quashed. Accordingly, the impugned final report in C.C.No.811 of 2025 on the file of the learned Judicial Magistrate II, Nagercoil is quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

28.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm



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To

- 1.The Judicial Magistrate Court No.II,
Nagercoil.
- 2.The Inspector of Police,
Vadaseri Police Station,
Nagercoil,
Kanyakumari District.
- 3.The Sub Inspector of Police,
Vadaseri Police Station,
Nagercoil,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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