

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1208 OF 2024

Anand Arunkumar Bhatt

...Petitioner

Versus.

The State of Maharashtra

...Respondent

Mr. Sunny Aaron Waskar a/w Ms. Harshada Morey & Ms. Bhavika Patil,
learned Advocates for the Petitioner.

Mr. Prasanna P. Malshe, learned A.P.P. for the State/Respondent.
PSI Mr. D. P. Mane attached to Kasturba Marg Police Station is present in
the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 4th MARCH 2026.

P.C. :

1. By this Petition, preferred by the Petitioner under Article 226 of the Constitution of India read with Section 482 of the Criminal Procedure Code, 1973 (Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), for quashing the First Information Report bearing No. 129 of 2018 dated 11.03.2018 registered with Kasturba Marg Police Station, Mumbai ("Impugned FIR"), for offences punishable under Sections 294, 114, and 34 of the Indian Penal Code, 1860, Sections 33(W) of the Maharashtra Police Act, and Sections 3 & 8(1)(2)(3)(4)(6) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (Working Therein) Act, 2016 and the charge-sheet, which is registered as Case No. 1180/PW/2020,

pending on the file of the learned Metropolitan Magistrate, 68th Court at Borivali, Mumbai, arising out of the impugned FIR.

2. The allegations in the impugned FIR and the material collected state that on 10.03.2018, the Police Inspector of Kasturba Marg Police Station, Mumbai, received secret information about objectionable activities at an establishment. Based on this information, the Police conducted a raid at Charwalk Bar and Restaurant, Ground Floor, Ghanshyam Tower, M. G. Road, Borivali (East), Mumbai. Approximately 45 people, including the bar manager, orchestra artists, bar girls, and customers of the said bar, were apprehended. The Petitioner is alleged to have been one of the “customers” present at the Charwalk Bar and Restaurant where the victims reportedly performed obscene dance.

3. Mr Sunny Waskar, learned Advocate for the Petitioner, submits that apart from referring to the Petitioner as a “customer”, there is no other material or assertion of whatsoever nature in the impugned FIR to make out the case as against the Petitioner for the offences, which are charged. He submits that there is no material to indicate that the Petitioner having behaved in any indecent manner or otherwise abetted the alleged crime. He therefore argues that prosecuting the Petitioner would amount to an abuse of legal process.

4. Mr Prasanna Malshe, learned A.P.P for the State/Respondent, submits that the only allegation against the Petitioner is that he was present at the Charwalk Bar and Restaurant as a “customer”.

5. Heard arguments advanced by Mr. Sunny Waskar, learned

Advocate for the Petitioner and Mr. Prasanna Malshe, learned A.P.P. for the State/Respondent. Perused records with the assistance of the learned Advocates appearing for the parties.

6. There are no allegations against the Petitioner of engaging in any obscene acts at Charwalk Bar and Restaurant. No specific overt acts are attributed to the Petitioner. The Petitioner's presence at Charwalk Bar and Restaurant is as a "customer".

7. In the case of ***Raj Jiten Chheda v/s. The State of Maharashtra***¹, the facts before this Court involved Petitioners, identified as "customers," who were present at the scene of an incident involving an obscene dance. This Court, after examining various other decisions, observed in paragraph nos. 11 to 13 as follows :-

"11. To add to this, there is no allegation of any overt act on the part of the applicant. Nor there is material to indicate that there was either conspiracy, intentional aid or instigation on the part of the applicant so as to constitute an abetment for the commission of the offences for which the applicant and the co-accused have been arraigned.

*12. In the case of **Rushabh Minishkumar Mehta (supra)**, a Division Bench of this Court, in an almost identical fact situation, enunciated that as regards the provisions of the Act, 2016, mere mentioning names of the customers in the FIR and the chargesheet would not suffice. In the case of **Akash R. Katla and Ors. (supra)**, another Division Bench of this Court, after adverting to the decision in the case of **Rushabh M. Mehta (supra)**, enunciated the position as under:*

*"8. In the case of **Rushabh Mehta & Anr. (supra)**, the petitioners therein had challenged the FIR registered*

1. Criminal Application No. 1172 of 2025 decided on 07.11.2025.

for offence under Sections 294, 111 read with 34 of the Indian Penal Code and Sections 3, 8(1), 8(2) and 8(4) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (Working Therein) Act, 2016. The petitioners therein were present at the place of incident where obscene dance was performed. This Court had observed that for attracting Section 294 of the IPC, the person against whom the offence is alleged should indulge in any obscene act at a public place. No such allegations were attributed to the petitioners therein. Similarly, Section 114 of IPC can be invoked where a person is liable when he is an abettor present when the alleged offence is committed. It was further observed that mere mentioning names of the accused in the FIR and the charge-sheet would not be sufficient to attract penal provisions invoked against them.”

13. *In the case of **Nirav Raval and Ors. (supra)**, another Division Bench of this Court observed that, mere presence of the Petitioners at the relevant place and time as customers when two women were allegedly dancing in an obscene manner was not sufficient to attract the offences. The observations in paragraph Nos. 6 and 7 read as under:*

“6. In view of rival submissions, we have perused the F.I.R., witnesses' statement and charge-sheet. The Petitioners have been figured in the F.I.R. as 'customers', present in the hotel, when the women were dancing. However, the concerned waiter could not be examined by the Investigating Officer as he had already left. There is no material to show that, when the customers gave the Indian Currency notes to the waiter, the Petitioners were amongst said customers and they only gave currency notes to the waiter with a specific instruction to blow it on the dancing women. No other specific overt-act has been attributed to the Petitioners so as to attract the offences punishable under Sections 294, 114 r/w. 34

of I.P.C. against them. Therefore, mere presence of the Petitioners at the relevant place and time, as 'customers', when the two women were dancing allegedly in obscene manner, is not sufficient to attract the said offence.

7. In **Manish Parshottam Rughwani And Ors. Vs. The State of Maharashtra and anr.**² the Co-ordinate Bench of this Court quashed the F.I.R. for similar offence alleged against the customers, for the reasons that, the Petitioners therein were merely present in the bar at the relevant time. However, no specific overt-act was attributed to them. For this conclusion the Division Bench considered the decisions of this Court in the case of **Jitendra R. Kamat Vs. The State of Maharashtra and anr.**³ and **Rushabh M. Mehta and anr. Vs. State of Maharashtra**⁴. The decision in **Manish Parshottam Rughwani (supra)** is clearly applicable to the case in hand.”

8. The case of **Raj Jiten Chheda (supra)** clearly applies to the present case. There is no material in the impugned FIR and charge sheet that would be sufficient to attract the penal provisions invoked against the Petitioner.

9. Relying on the principles laid down by the Hon'ble Supreme Court in the case of **State of Haryana and Others v/s. Bhajan Lal and Others**⁵, this would be a fit case to exercise powers under Section 528 of the BNSS to prevent abuse of justice.

10. In view of the above, Criminal Writ Petition is allowed in terms of prayer clause (a). Consequently, the impugned FIR bearing No. 129 of 2018 dated 11.03.2018 registered with

2. Criminal Writ Petition (St) No. 4343 of 2024 decided on 05.04.2024.

3. Criminal Writ Petition No. 4603 of 2021 decided on 06.09.2022.

4. Criminal Writ Petition (St) No. 4799 of 2020 decided on 14.01.2021.

5. 1992 Supp (1) Supreme Court Cases 335.

Kasturba Marg Police Station, Mumbai and the charge-sheet bearing Case No. 1180/PW/2020, pending on the file of the learned Metropolitan Magistrate, 68th Court at Borivali, Mumbai, arising out of the impugned FIR, are quashed. Criminal proceedings against the Petitioner arising out of the impugned FIR are closed.

11. Criminal Writ Petition No. 1208 of 2024 is disposed of. No order as to costs.

[ASHWIN D. BHOBE, J.]

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