Reserved on : 25.09.2026
Pronounced on : 21.11.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 16996 OF 2025

C/W

CRIMINAL PETITION NO. 10091 OF 2025

CRIMINAL PETITION NO. 15219 OF 2025

IN CRL.P No. 16996/2025

BETWEEN:

SRI ANIL KUMAR V.,
S/O LATE VASU P.,
AGED ABOUT 50 YEARS,
RESIDING AT B 2103,
MAGNIFICIA APARTMENTS,
NEAR TIN FACTORY, OLD MADRAS ROAD,
UDAYA NAGAR, DOORVANINAGAR POST,
BENGALURU – 560 016.

...PETITIONER

(BY SRI V.LAKSHMINARAYANA, SR.ADVOCATE FOR
SRI CHAND PASHA, ADVOCATE)

Digitally signed by RAKESH S HARIHAR
Location: High Court of Karnataka, Dharwad Bench

AND:

1. THE STATE OF KARNATAKA
   BY MAHADEVAPURA PS,
   REPRESENTED BY SPP,
   HIGH COURT OF KARNATAKA,
   BENGALURU – 560 001.

2. XXXXXX
   XXXXXX
   XXXXXX
   XXXXXX

…RESPONDENTS

(BY SMT.DEEPTHI ALVA, HCGP FOR R-1;
SRI MAHESH Y.L., ADVOCATE FOR R-2)

THIS CRL.P IS FILED U/S.482 (FILED U/S.528 BNSS) CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN S.C.NO.1531/2025 ARISING OUT OF CR.NO.602/2023 FOR THE ALLEGED OFFENCE PUNISHABLE UNDER SECTIONS 376 AND 344 OF IPC PENDING ON THE FILE OF THE LIII ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU VIDE ANNEXURE-C.

IN CRL.P NO. 10091/2025

BETWEEN:

1. SRI ANIL KUMAR V.,
   S/O LATE VASU P.,
   AGED ABOUT 50 YEARS,
   RESIDING AT B 2103,
   MAGNIFICIA APARTMENTS,

NEAR TIN FACTORY, OLD MADRAS ROAD,
UDAYA NAGAR, DOORVANINAGAR POST,
BENGALURU – 560 016.

...PETITIONER

(BY SRI V.LAKSHMINARAYANA, SR.ADVOCATE FOR
SRI CHAND PASHA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY MAHADEVAPURA PS,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BENGALURU – 560 001.

2. SRI RAJA G.C.,
S/O CHIKKAHANUME GOWDA
POLICE INSPECTOR
CCB WOMEN PROTECTION WING,
N T PETE,
BENGALURU – 560 053.

...RESPONDENTS

(BY SMT.DEEPTHI ALVA, HCGP FOR R-1;
SRI NISHANTH S.K., ADVOCATE FOR IMPLEADING

APPLICANT IN IA NO.1/26)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE CHARGE SHEET AND ENTIRE PROCEEDINGS IN S.C.NO.1011/2024 ARISING OUT OF CR.NO.21/2024 REGISTERED BY RESPONDENT MAHADEVAPURA POLICE FOR THE ALLEGED PUNISHABLE

OFFENCES UNDER SECTIONS 3, 4, 5 OF IMMORAL TRAFFIC PREVENTION ACT, 1956, SECTION 66(C) OF IT ACT, 2008 AND SEC. 370 R/W 34 OF IPC ARISING OUT OF CR.NO.21/2024 PENDING ON THE FILE OF LXXI ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU, VIDE ANNEXURE-D.

IN CRL.P NO. 15219/2025

BETWEEN:

1. SRI VINEESH VIJAY,
   S/O KESHVAN KANNUVETTI VIJAY,
   AGED ABOUT 38 YEARS,
   RESIDING AT B BLOCK FLAT NO.2103,
   MAGNIFICIA APARTMENTS,
   NEAR TIN FACTORY, OLD MADRAS ROAD,
   UDAYA NAGAR, DOORVANINAGAR POST,
   BENGALURU – 560 016.
   [AS PER AADHAR]

...PETITIONER

(BY SRI V.LAKSHMINARAYANA, SR.ADVOCATE FOR
SRI CHAND PASHA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY MAHADEVAPURA PS,
   REPRESENTED BY SPP,
   HIGH COURT OF KARNATAKA,
   BENGALURU – 560 001.

2. SRI RAJA G.C.,
   S/O CHIKKA HANUME GOWDA

AGED ABOUT 46 YEARS
POLICE INSPECTOR
CCB WOMEN PROTECTION WING,
N T PETE, BENGALURU – 560 053.

...RESPONDENTS

(BY SMT.DEEPTHI ALVA, HCGP FOR R-1)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) PRAYING TO QUASH THE CHARGESHEET AND ENTIRE PROCEEDINGS IN SC.NO.1011/2024 ARISING OUT OF CR.NO.21/2024 REGISTERED BY RESPONDENT MAHADEVAPURA POLICE, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 3, 4, 5 OF IMMORAL TRAFFIC PREVENTION ACT, 1956, SECTION 66(C) OF I.T ACT, 2008 AND SECTION 370 R/W 34 OF IPC, ARISING OUT OF CR.NO.21/2024 PENDING ON THE FILE OF LXXI ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU, VIDE ANNEXURE C AND D.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

Criminal Petition No.16996 of 2025 is preferred by accused No.1 in S.C.No.1531 of 2025 arising out of Crime No.602 of 2023 and Criminal Petition Nos.10091 of 2025 and 15219 of 2025 are preferred by accused Nos.1 and 2 in S.C.No.1011 of 2024 arising out of Crime No.21 of 2024. Since the fulcrum of the complaint in both cases arise out of connected incidents, the petitions are taken up together.

2. Heard in all the petitions **Sri V. Lakshminarayana**, learned counsel appearing for the petitioners, **Smt. Deepthi Alva**, learned High Court Government Pleader appearing for respondent No.1 and **Sri Mahesh Y.L.**, learned counsel appearing for respondent No.2 in Crl.P.No.16996 of 2025.

3. Facts, in brief, germane are as follows:

Criminal Petition No.16996 of 2025:

The 2nd respondent, complainant/victim joins a place of business "Nirvana International Spa" as its Manager. The said spa is run by Anil Kumar/accused No.1. On 25-07-2023, at about 12.00 noon, it is alleged, that she was raped by accused No.1 in accused No.1's cabin in Room No.218 and then sent to the VIP spa on the first floor. The complainant further alleges that accused No.1's acquaintances were brought by accused No.1 and all have indulged in physical abuse and raped her several times. The further allegation is that she was forced to have sexual relations with accused No.1 on several occasions and was wrongfully confined for one month and ten days. On 31-08-2023, the 2nd respondent/complainant escapes wrongful confinement, leaves the business and registers a complaint before the jurisdictional Police, two months after her escape, on 01-10-2023. This becomes a crime in Crime No.602 of 2023 for offences punishable under Sections 506, 504, 376, 344 and 34 of the IPC.

4. The Police conduct investigation and file a 'B' report in Crime No.602 of 2023. The complainant prefers a protest petition against the said 'B' report. The Court of Session considers the protest petition and the fact that the complaint by respondent No.2 entails allegations under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and refers the matter to the Deputy Commissioner for issuing intimation to the SC/ST Commissioner to initiate appropriate action and directs further investigation to be undertaken by the police under Section 173(8) of the Cr.P.C. Thereafter, the police submit the very same 'B' Report once again after further-investigation, on the score that there is no change of opinion from that of the previous Investigating Officer. The concerned Court then rejects the 'B' report and takes cognizance for the offences punishable under Sections 376 and 344 of the IPC in S.C.No.1531 of 2025.

Criminal Petition No.10091 of 2025 and Criminal Petition No.15219 of 2025 :

5. On 06-01-2024, another crime comes to be registered by the jurisdictional Police themselves on a raid conducted in the said

Spa. The result of the raid was registration of Crime No.21 of 2024 for offences punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 ('the Act' for short), Sections 66C of the Information Technology Act, 2000 and Sections 370, 370(3), 370A(2) r/w 34 of the IPC. The allegation was that accused No.1 under the guise of operating a Spa was in fact running an organized sex racket involving trafficking of women and their systemic sexual exploitation. The police conduct investigation and file the charge sheet. The concerned Court takes cognizance of the offence and registers S.C.No.1011 of 2024. Anil Kumar, who is the petitioner in Criminal Petition No.10091 of 2025, is drawn as accused No.1; and Vineesh Vijay, who is the petitioner in Criminal Petition No.15219 of 2025, is drawn as accused No.2, in the aforesaid proceedings.

6. It is these cognizance orders and the proceedings that form the challenge in these petitions.

7.1. The learned senior counsel **Sri V. Lakshminarayana** appearing for the petitioners would contend that insofar as Criminal Petition No. 16996 of 2025 is concerned, the concerned Court has erred in taking cognizance of the offence in Crime No. 602 of 2023

after filing of 'B' report without recording any reasons. Continuing proceedings against the accused despite two 'B' reports is unsustainable in law. The concerned Court has failed to follow the law laid down by the coordinate Bench of this Court in **DR. RAVIKUMAR v. MRS. K.M.C. VASANTHA** reported in **ILR 2018 KAR 1725**. The scope of investigation should be further investigation and not a re-investigation. There is delay of two months in reporting the offences. Learned senior counsel would further submit that the ingredients of the offences under Sections 376 and 344 of the IPC are not made out.

7.2. In Criminal Petition No.10091 of 2025 and Criminal Petition No.15219 of 2025, the learned senior counsel would contend that the entire proceedings are false and vexatious and have been fabricated against the petitioners as the petitioners refused to agree to the demands of the Police. The Annexure that is appended to the charge sheet records job description of all 40 women, none of whom are recorded as sex workers. Furthermore, the respondent No.1 has failed to follow the procedure laid down by

the coordinate Benches of this Court in the proceedings that are now on. Therefore, the proceedings must be obliterated.

8. *Per contra*, the learned counsel appearing for the complainant would vehemently refute the submissions by taking this Court through the documents appended to the petition. He would submit that filing of 'B' report against the accused itself was an error as on the same allegations, on a search conducted by the Police, the Police have filed a charge sheet. Therefore, the concerned Court has rightly rejected the 'B' report and has taken cognizance of the offence. He would submit that procedural aberration that the learned senior counsel is now wanting to project is considered by the Apex Court and the Apex Court has held it to be directory and not mandatory.

9. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

10. Criminal Petition No.16996 of 2025 is preferred by accused No.1. The 2nd respondent is the complainant. A complaint

comes to be registered on 01-10-2023. The complaint reads as follows:

"TO

Police Inspector
Mahadevapura police station
Bangalore city

Regarding -: Sexual harassment, and Rape
Complaint Against Anil Reddy and Others.

Sir, it is requested that a person named Anil Reddy has a spa parlor by the name of Nirvana International Spa at my site Heights, Near Pai Layout Road Shakti Nagar, Tin Fectory Bengaluru. I came to know that there is a need for a job here, so I went to their parlor for a job on 19 July 2023, where I met the manager, a woman named Ramya. After waiting for some time, Anil Reddy came and took me to one of his secret cabins, I was taken to discuss the monthly salary and was asked to work as a manager. 2 days later, on 21st July 23, I reached in the morning to join the spa parlor suggested by them where spa therapy is done on the sixth floor and first floor. After working all day, these people sent me to Versus Splendor Building, a kilometer away from the spa parlor, to stay in the evening. The next day, I went to the spa parlor for a job. But then Anil Reddy told me that the door of his secret room where no other person can come can be opened only by Anil Reddy by touching his finger to the biometric machine, where Anil Reddy told me that you will be given the post of manager. Spa. They will keep me, I will have to do whatever they say and on 25/7/23 at around 12 o'clock in the day room no-218, 1st Floor (Anil Reddy Cabin), Anil Reddy forcefully raped me and later sent me to VIP Spa on the first floor, where there are rooms of 15 by 15, There is also a Jacuzzi (bath tub). there are many rooms.

The doors of all these rooms were opened only by the thumb impression of the girls through biometric machine. In his parlor itself, Red, who had not taken the aloan, in this spa parlor, Anil Reddy called many of his acquaintances and got me physically abused, dated On 1/8/23 and 2/8/23. Anil Reddy his people

> Venkatesh Sai, Narayan, doctor Mohit and many others all are several times intimidated me and raped me, When I came forward, I would recognize that Anil Reddy himself physically abused me daily and pressured me to have sexual relations with many of his acquaintances. These people had installed red lights in every room of the spa parlor and told us that where ever the police comes, these lights come on. You guys come out from the back way where there is a lift and sit in the auto parked on the ground floor. I stayed here for about a month and 10 days. Anil Reddy changed my name to XXXX in his spa parlor, Till then Anil Reddy did not let me go out anywhere, I left from here on 31st August 2023 Whenever Anil reddy came to me and he always used abusive words and threatened me to kill. So i am very much scared about is behaviar and words.
>
> I want to file a case against these Culprits.
>
> Sir, I request you to please file a case against Anil Reddy, Venkatesh Sai, Narayan, doctor Mohit and many others are physically abused me several times."

The Police conduct investigation and file a 'B' report. The complainant then files a protest petition. The concerned Court, on the 'B' report so filed, passes the following order:

"…. …. ….

REASONS

> **6. POINT No.1**: On going through the records, complainant got examined herself as complainant by filing affidavit wherein she has reiterated the threat given by the accused persons.
>
> 7. The learned counsel for the accused relies on citation 2012(2) SCC 188 in case of Dr.Mrs. Nupur Talwar V/s. CBI Delhi and another wherein it is held that:
>
> "(26) The position is, therefore, now well settled that upon receipt of a police report under Section 173(2) a Magistrate is

entitled to take cognizance of an offence under Section 190(1)(b) of the Code even if the police report is to the effect that no case is made out against the accused. The Magistrate can take into account the statements of the witnesses examined by the police during the investigation and take cognizance of the offence complained of and order the issue of process to the accused. Section 190(1)(b) does not lay down that a Magistrate can take cognizance of an offence only if the investigating officer gives an opinion that the investigation has made out a case against the accused. The Magistrate can ignore the conclusion arrived at by the investigating officer and independently apply his mind to the facts emerging from the investigation and take cognizance of the case, if he thinks fit, in exercise of his powers under Section 190(1)(b) and direct the issue of process to the accused"

and submits when the report is made with regard to sexual assault, victim is to be protected by the Investigating Officer, however without protecting the interest of the victim Investigating Officer has tried to protect the interests of the accused herein.

8. The learned counsel for the complainant submits the complainant joined the Spa on 19.7.2023 report was made on 1.10.2023 however the B report has been filed by the Investigating Officer the explanation for delay is noted. The complainant has two cases against her the reason for filing the B report she is living in a very luxurious life, she is having theft case registered in Mahadevapura jurisdictional police. The tower locations of accused Nos.1 to 3 does not disclose that they were present in the premises. As per the B Report filed it is submitted that The victim was subject to basic medical examination and samples about 23 items were collected and sent to FSL. However there is no narration of report received form FSL portraying hasty and biased investigation as such the B report deserves to be rejected. It has become a common feature for the accused alleged to have committed offences under the provisions of the SC/ST (POA) Act 1989 to file counter cases against the victims and to force them to withdraw the cases filed by them. The police under the influence of the accused persons, mostly register false cases against the victims for the offences like 354, 354A, 354D IPC. The Investigating Officer has found fault with the complainant but Investigating Officer has

not summoned accused and enquired no any medical report of accused has taken, only medical report of the victim is collected. In fact the case registered against the victim in one case at Bhopal, she has been already acquitted in sessions Trial No.83/2020 (CID HQ in Cr.No.2/2019). Therefore the reasons assigned by the Investigating Officer are not acceptable. The Investigating Officer has not taken care as per the provisions of SC/ST (POA) Act 1989 by collecting the caste reports of accused and complainant nor as provided under protection to the accused while she was in Bengaluru, even after making report as per the provisions of Rule 5 and 6 of SC/ST (POA) Rules 1995. Accordingly seeks to allow the petition and set aside the B report.

9. On going through the material on record, it is pertinent to note from the record that Investigating Officer after registering the crime has not at all issued notice to the accused and summoned him. Secondly the Investigating Officer has not at all collected the registration certificate of the Nirvan International Spa who are the board members. Another Investigating Officer has not investigated whether any internal audit committee namely for sexual harassment of the victim is constituted as per the provisions of "The sexual Harassment of Women at Work place (Prevention, Prohibition and Redressal) Act 2013:

> "WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business with includes a right to a safe environment free from sexual harassment;
>
> AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India; and whereas it is expedient”

10. The Investigating Officer has not collected any report from Nirvana. International Spa. Whether it has constituted any

committee for prevention of sexual harassment of working women therein. In the absence of collecting these materials by the Investigating Officer, the Investigating Officer did acted against the provisions of procedure for conducting the investigation in sexual offence is evidence from the record. Moreover, as per the provisions of SC/ST (POA) Act 1989 Investigating Officer has not at all sought the available protection of the victim as per Rule 9, 10 or 11 and 12 of the SC/ST (POA) Rules 1995. Hence, the materials on record are sufficient to consider the prayer of the complainant. Hence, this court is satisfied to answer the above Point No.1 in the Affirmative.

11. POINT NO.2: In view of my finding on the above Point No.1, I proceed to pass following;

ORDER

The 'B' report filed by the investigating officer is hereby set-aside.

Office is directed to register Special Case.

Issue notice to Investigating Officer as per Rule 5 and 6 of SC/ST (POA) Act 1989 to make spot inspection by the Deputy Commissioner by 21.12.2024."

The 'B' report was set aside. The office was directed to register a Special case. Notice was issued to the Deputy Commissioner for conduct of a spot inspection in terms of Rules 5 and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 as the allegations were for offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989 as well. In S.C.No.1531 of 2025 registered, the concerned Court passes the following order:

"**ORDERS**

The case of the complainant is that she was sexually harassed and raped by the accused persons during her employment at Nirvana International Spa. In the complaint as per Ex.P3, the complainant victim stated that the owner of Nirvana International Spa Mr. Anil Reddy was running the Spa at Pai Layout, Shakti Nagar, Tin Factory, Bengaluru. She went in search of a job on 19.07.2023, she met the Manager Smt. Ramya and then she was taken into secrete cabin by the accused No.1 Mr.Anil Reddy. He discussed about the salary and asked her to work as a Manager. After 2 days she joined to the Spa and after the work she along with other workers were escorted to a building situated 1 Km away from the Spa. On the next day, when she went to the Spa, accused No.1 offered her the post of Manager, but he instructed her to obey his orders.

2. On 25.07.2023, around 12 Noon, at Room No.218, 1st floor, accused no. 1 forcefully raped her inside his cabin. The doors of these rooms can be opened by thumb impression of the girls through biometric machine. On 01.08.2023 and 02.08.2023, accused No.1 and his friends Venkatesh Sai, Narayan and Dr.Mohith and many others intimidated and raped her several times. Accused No.1 pressurized her to have sexual relationship with many of his acquaintances. Red lights were installed in every room to escape, whenever the police comes inside the Spa and they were instructed to come and sit in an Auto parked area on the ground floor. She stayed for about a month and 10 days in the Spa, her name was changed into XXXX and she was not allowed to go out anywhere. On 31.08.2023, she left the Spa. The complainant further alleged that the accused No.1 used to abuse her and threatened to kill her. With these allegations, the complainant insisted to take action against the accused No. 1 to 4.

3. As per the complaint dated 01.10.2023, a crime case came to be registered in Mahadevapura P.S. Crime No.602/2023 against accused No.1 to 4 and others. After completing the

investigation, the ACP Whitefield Sub-Division submitted 'B' final report on 01.02.2024.

4. The complainant was notified about filing of 'B' final report and she represented through her Advocate Sri. B.H.G. On 18.03.2024, the complainant filed the protest petition. My learned predecessor in office, passed orders on 'B' report and set aside the same by the Order dated 13.11.2024. Further directed the Deputy Commissioner, Bengaluru Urban to make spot inspection and to submit the internal audit report. On 04.07.2025, ACP Whitefield Sub-Division furnished the report stating that the investigation carried out by the previous Investigation Officers holds good and her findings on the investigation was unaltered. The complainant examined herself as PW.1 and got marked Ex.P1 to P14 documents.

5. The complainant/victim deposing in support of her contentions, has reiterated the entire averments of the private complaint. She furnished her caste certificate to show that she belongs to Schedule caste and she categorically made the allegations of penetrative assault against the accused No.1 to 4 as mentioned in the FIR as per Ex.P4. She also deposed that there was a delay of 20 days in lodging the complaint as she had been to her native place Bhopal, she was under trauma and she was under rest. Thereafter, consulting an advocate she lodged the complaint as per Ex.P3. She also deposed that after she lodging the complaint, the CCB police have raided the Spa and rescued all the 44 girls working in the Spa and the case was also registered against the owner of the Spa in Crime No.1011/2024. The complainant produced Ex.P14/complaint, FIR, order sheet and the charge sheet filed against the accused No.1 to 4 in Crime No. 1011/2024. She further deposed that she was kept in jail for 4 days on the false complaint made by one Priyanka @ Preeth alleging theft of articles. Lastly, she prayed to register a case against the accused No.1 to 4 for committing forceful sexual intercourse against her.

6. My learned predecessor in office after receiving the B-Report filed by the I.O., rejected the B-report by his Order dated 13.11.2024. He did not issue summons to the accused, instead directed the I.O. to make spot inspection as per Rule 5 and 6 of the SC/ST Act. In compliance of the said Order, no report was furnished by the Deputy Commissioner, Bengaluru

Urban. But the IO furnished report stating the findings of the investigation is correct.

7. It is already held that the I.O. did not conduct proper investigation and did not collected the required evidence towards the allegations made by the complainant. The B-report filed by the I.O. is not accepted by this Court. On going through the complaint, the evidence deposed by the victim and the documents furnished by her, this court is satisfied that there is a prima facie case made out by the complainant for the offences punishable under section 376 and 344 of IPC against accused no.1 to 4. The accused persons are liable to face trial for the same.

8. Further, this Court finds that there are no ingredients for the offences alleged under the provisions of SC & ST [Prevention of Atrocities] Act. Although the victim is a member of SC/ST, no offence is committed under the provisions of the SC & ST [Prevention of Atrocities] Act and there are no caste based allegations made either in the complaint or in the evidence, to take cognizance for the offences punishable under Section 3(1)(r), (s), (w) of SC & ST [Prevention of Atrocities] Act. Accordingly, this court is satisfied to take cognizance only for the offences punishable under section 376 and 344 of IPC against the accused No.1 to 4, whose names are mentioned in Ex.P4/FIR.

9. Since this court is a Special Court designated only to try the offences punishable under the SC & ST [Prevention of Atrocities] Act, the case needs to be made over to the Special Court constituted to try the sexual offences committed against women. Hence, I proceed to pass the following:

ORDER

Cognizance is taken for the offences punishable under Section 376 and 344 of I.P.C.

Office is directed to place the entire records before the Hon'ble Principal City Civil and Sessions Judge, Bengaluru, to pass suitable orders regarding transfer."

Thus, cognizance is taken in S.C.No.1531 of 2025 for the afore-quoted offences.

11. Another crime was registered on a raid conducted by the jurisdictional police. This becomes a crime in Crime No.21 of 2024. The Police after conduct of investigation file a charge sheet against the accused. The summary of the charge sheet as obtaining in column No.17 reads as follows:

> "17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ
>
> ಈ ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯಲ್ಲಿ ನಮೂದು ಮಾಡಿರುವ ಸಾಕ್ಷಿ-01 ರವರಿಗೆ ದಿನಾಂಕ:-06-01-2024 ರಂದು ಸಂಜೆ ಸುಮಾರು 05-00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಬಂದ ಖಚಿತ ಮಾಹಿತಿ ಏನೆಂದರೆ, ಮಹದೇವಪುರ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ ವಿಳಾಸ:-ನಂಬರ್ 1ನೇ ಮೈನ್ ರೋಡ್, ಮರಸಿಡೈಸ್ ಹೈಟ್ಸ್, ಪೈ ಲೇಔಟ್, ಸಾಕ್ಷಿ ನಗರ ಬೆಂಗಳೂರು ನಗರ 1 ಮತ್ತು 6ನೇ ಮಹಡಿ ಬಿಲ್ಡಿಂಗನಲ್ಲಿ ಅನಿಲ್ ಕುಮಾರ್ ಎಂಬುವರು ತಮ್ಮ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಹೊರ ರಾಜ್ಯ/ರಾಷ್ಟ್ರಗಳಿಂದ ಹುಡುಗಿಯರಿಗೆ/ಮಹಿಳೆಯರಿಗೆ ಕೆಲಸ ಕೊಡಿಸುವುದಾಗಿ ಹೇಳಿ ಆಮಿಷ ಒಡ್ಡಿ ಮಾನವ ಕಳ್ಳಸಾಗಾಣಿಕೆ ಮಾಡಿಕೊಂಡು ಕರೆದುಕೊಂಡು ಬಂದು ನಿರ್ವಾಣ ಇಂಟರ್ ನ್ಯಾಷಿನಲ್ ಪ್ರೈ.ಲಿ ಸ್ಪಾ ನಲ್ಲಿ ಕೊಡಿಹಾಕಿಕೊಂಡು ಸ್ಪಾಗೆ ಗಿರಾಕಿಗಳನ್ನು ಕರೆಯಿಸಿಕೊಂಡು ವೇಶ್ಯಾವಾಟಿಗೆ ದಂದೆಯಲ್ಲಿ ತೊಡಗಿಸಿ ಅಕ್ರಮ ಹಣ ಸಂಪಾದನೆ ಮಾಡುತ್ತಿರುತ್ತಾರೆಂದು ಖಚಿತ ಬಾತ್ಮಿ ಇರುತ್ತದೆಂದು ಕೊಟ್ಟ ವರದಿ ಮೇರೆಗೆ ಪ್ರಕರಣ ದಾಖಲು ಮಾಡಿಕೊಂಡಿರುತ್ತದೆ.
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> ನಂತರ ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಬಂದ ಖಚಿತ ಮಾಹಿತಿ ಮೇರೆಗೆ ನಿಯಮಾನುಸಾರವಾಗಿ ಅಧಿಕಾರಿ, ಸಿಬ್ಬಂದಿಗಳು ಹಾಗೂ ಪಂಚರೊಂದಿಗೆ ಸ್ಪಾ ಮೇಲೆ ದಾಳಿ ಮಾಡಿದಾಗ, ಪ್ರಕರಣದ 1ನೇ ಆರೋಪಿಯಾದ ಅನಿಲ್ಕುಮಾರ್, 2ನೇ ಆರೋಪಿಯಾದ ವಿನೀಶ್ ವಿಜಯ್ ರವರು ಸೇರಿಕೊಂಡು, ಮಹದೇವಪುರ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ ವಿಳಾಸ:-ನಂಬರ್ 1ನೇ ಮೈನ್ ರೋಡ್, ಮರಸಿಡೈಸ್ ಹೈಟ್ಸ್, ಪ್ರೈ.ಲೇಔಟ್, ಸಾಕ್ಷಿ ನಗರ ಬೆಂಗಳೂರು ನಗರದ 1 ಮತ್ತು 6ನೇ ಮಹಡಿ ಬಿಲ್ಡಿಂಗನ್ನು ಸಾಕ್ಷಿ 34, 35, 36, 37, 38, 39, 40, 41 ರವರುಗಳಿಂದ ದಿನಾಂಕ:21-06-2023 ರಂದು ಬಾಡಿಗೆ/ಲೀಜ್ ಗೆ ಪಡೆದುಕೊಂಡು ಅಗ್ರಿಮೆಂಟ್

ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಆರೋಪಿಗಳು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ಇರುವ 1 & 6ನೇ ಬಿಲ್ಡಿಂಗ್ನ ಮಹಡಿಗಳನ್ನು ಬಾಡಿಗೆ ತೆಗೆದುಕೊಳ್ಳುವ ಸಮಯದಲ್ಲಿ ತಾವು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ನಿರ್ವಾಣ ಇಂಟರನ್ಯಾಷಿನಲ್ ಪ್ರೈ.ಲಿ ಎಂಬ ಹೆಸರಿನ ಸ್ಪಾ ಮಾಡಿಕೊಂಡು, ವಿವಿಧ ರೀತಿಯ ಥಾಯಿ ಮಸಾಜ್, ಬಾಡಿ ಮಸಾಜ್, ಇತ್ಯಾದಿ ಮಸಾಜ್ ಥೆರಪಿಗಳ ಸರ್ವಿಸ್ ಮಾಡುವುದಾಗಿ ಹೇಳಿ ಬಿಲ್ಡಿಂಗ್ನ 2 ಮಹಡಿಯನ್ನು ಬಾಡಿಗೆ ಪಡೆದುಕೊಂಡು, ನಂತರ ನಿರ್ವಾಣ ಇಂಟರನ್ಯಾಷಿನಲ್ ಸ್ಪಾ ಹೆಸರಿನಲ್ಲಿ ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯಿಂದ ಟ್ರೇಡ್ ಲೈಸೆನ್ಸ್ ನಂಬರ್ ಒಂ0205631980789059 & ಕಾರ್ಮಿಕ ಇಲಾಖೆ ಲೈಸೆನ್ಸ್ನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ.

ನಂತರ ಆರೋಪಿಗಳು ತಮ್ಮ ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಅಕ್ರಮ ಹಣ ಸಂಪಾದನೆ ಮಾಡುವ ದುರುದ್ದೇಶದಿಂದ Nirvanainternationalspa.Pvt ವೆಬ್ಸೈಟ್ ಮೂಲಕ ಸ್ಪಾ ಗೆ ಸಂಪರ್ಕ ಮಾಡುವ ಹುಡುಗಿಯರಿಗೆ ಸ್ಪಾ ನಲ್ಲಿ ನಡೆಸುವ ವೇಶ್ಯಾವಾಟಿಕೆ ದಂದೆ ವಿಚಾರವನ್ನು ಮರೆಮಾಚಿ, ಅವರ ಫೋಟೋ, ಎತ್ತರ, ತೂಕ ಇತ್ಯಾದಿ ಮಾಹಿತಿಯನ್ನು ವಾಟ್ಸಾಪ್ ಮೂಲಕ ತರಿಸಿಕೊಂಡು, ಆರೋಪಿ ಅನಿಲ್ ಕುಮಾರ್ ಮತ್ತು ವಿನೀಶ್ ವಿಜಯ ರವರು ಸೆಲೆಕ್ಟ್ ಮಾಡಿದ ಹುಡುಗಿಯರಿಗೆ ಕೆಲಸ ಕೊಡುವುದಾಗಿ ಹೇಳಿ ಆಮಿಷ ಒಡ್ಡಿ ಸ್ಪಾ ಕಡೆಯಿಂದ ಸದರಿ ರವರ ಟ್ರಾವಲಿಂಗ್ ಟಿಕೆಟ್ ಬುಕ್ ಮಾಡಿ ಹುಡುಗಿಯರನ್ನು ಸ್ಪಾ ಗೆ ಕರೆಯಿಸಿ ಕೊಳ್ಳುವುದು ಮಾಡುತ್ತಾ, 40 ಜನ ಹೊರ ರಾಜ್ಯ/ರಾಷ್ಟ್ರಗಳ ಮಹಿಳೆಯರು/ಹುಡುಗಿಯರಿಗೆ ಥೆರಪಿಸ್ಟ್ ಮತ್ತು ಇತ್ಯಾದಿ ಕೆಲಸ ಕೊಡುವುದಾಗಿ ಹೇಳಿ ಮಾನವ ಕಳ್ಳಸಾಗಾಣಿಕೆ ಮಾಡಿಕೊಂಡು ಬಂದು ನಿರ್ವಾಣ ಇಂಟರ್ನ್ಯಾಷಿನಲ್ ಸ್ಪಾನ 1ನೇ ಮಹಡಿ ಇರುವ ಸ್ಪಾಫ್ ರೂಂ ನಲ್ಲಿ ಕೂಡಿ ಹಾಕಿಕೊಂಡು, ಸ್ಪಾ ಗೆ ಬರುವ ಗಿರಾಕಿಗಳಿಗೆ ಹುಡುಗಿಯರ ಫೋಟೋಗಳನ್ನು ತೋರಿಸಿ ವ್ಯವಹಾರ ಕುದಿರಿಸಿ ವೇಶ್ಯಾವಾಟಿಕೆ ದಂದೆಯಲ್ಲಿ ತೊಡಗಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಹಾಗೂ ವೇಶ್ಯಾವಾಟಿಕೆ ದಂದೆಯಿಂದ ಬಂದ ಹಣವನ್ನು ನಗದು ರೂಪದಲ್ಲಿ ಮತ್ತು ನಿರ್ವಾಣ ಇಂಟರನ್ಯಾಷಿನಲ್ ಸ್ಪಾ ಪ್ರೈ.ಲಿ, ನಿರ್ವಾಣ ಥಾಯಿ ಸ್ಪಾ ಇತ್ಯಾದಿ ಹೆಸರಿನಲ್ಲಿ ಬೇರೆ ಬೇರೆ ಖಾತೆಗಳಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿಕೊಂಡಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಸಂರಕ್ಷಣೆ ಮಾಡಿದ 40 ಜನ ಮಹಿಳೆಯರು/ಹುಡುಗಿಯರು ಬೇರೆ ಬೇರೆ ರಾಜ್ಯ & ರಾಷ್ಟ್ರದವರಾಗಿದ್ದು, ರವರನ್ನು ವಿಚಾರಣೆ ಮಾಡಿದಾಗ, ಸದರಿ ರವರು ನುಡಿದಿದ್ದೇನೆಂದರೆ, ನಿರ್ವಾಣ ಇಂಟರ್ನ್ಯಾಷಿನಲ್ ಸ್ಪಾ ನ ಮಾಲೀಕರಾದ ಅನಿಲ್ ಕುಮಾರ್ @ ಅನಿಲ್ ರೆಡ್ಡಿ ಮತ್ತು ವಿನೀಶ್ ವಿಜಯ ರವರು ದೊಡ್ಡ ದೊಡ್ಡ ಶ್ರೀಮಂತ ವ್ಯಕ್ತಿಗಳನ್ನು ನೇರವಾಗಿ ಸಂಪರ್ಕ ಮಾಡಿಕೊಂಡು ಸ್ಪಾ ಗೆ ಕರೆಯಿಸಿಕೊಳ್ಳುವುದು ಮತ್ತು Nirvanainternationalspa.Pvt ಆನ್ ಲೈನ್ ಮೂಲಕ ಸ್ಪಾ ಗೆ ಸಂಪರ್ಕ ಮಾಡಿಕೊಂಡು ಸ್ಪಾ ಗೆ ಬರುವ ಗ್ರಾಹಕರಿಗೆ ಸ್ಪಾ ದಲ್ಲಿ ಕೂಡಿ ಹಾಕಿಕೊಂಡ ಮಹಿಳೆಯರ/ಹುಡುಗಿಯರ ಫೋಟೋ ತೋರಿಸಿ ವ್ಯವಹಾರ ಕುದಿಸಿ, ಗಿರಾಕಿಗಳು ಇಚ್ಛೆ ಪಡುವ ಮಹಿಳೆಯರ/ಹುಡುಗಿಯರನ್ನು ಗಿರಾಕಿಗಳೊಂದಿಗೆ ಲೈಂಗಿಕ ಚಟುವಟಿಕೆಯಲ್ಲಿ ತೊಡಗಿಸಿ, ಅನಿಲ್ ಕುಮಾರ @ ಅನಿಲ್ ರೆಡ್ಡಿ ರವರು ಗಿರಾಕಿಗಳಿಂದ ನಗದು ರೂಪದಲ್ಲಿ, ಕಾರ್ಡ ಸ್ವ್ಯಾಪ್ ಹಾಗೂ ಫೋನ್ ಫೇ ಮೂಲಕ ಹಣ ವಸೂಲಿ ಮಾಡುತ್ತಿರುವುದಾಗಿ ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಆರೋಪಿಗಳು ತಮ್ಮ ದಂದೆಗೆ ಅನುಕೂಲಕರವಾಗುವಂತೆ ಸ್ಪಾ ನ ಎಲ್ಲಾ Entry, Exit ಡೋರಗಳಿಗೆ ಹಾಗೂ ರೂಂ ನ ಡೋರ್ಗಳಿಗೆ ಪಿಂಗರ್ ಸ್ಕ್ಯಾನ್ ಲಾಕ್ ಸಿಸ್ಟಮ್ನ್ನು

ಅಳವಡಿಸಿರುತ್ತಾರೆ. ಇದರಿಂದ ಸಂರಕ್ಷಣೆ ಮಾಡಿದ ಮಹಿಳೆಯರು/ಹುಡುಗಿಯರಿಗೆ ಸ್ಪಾ ನಿಂದ ಆಚೆಗೆ ಹೋಗಲು ಯಾವುದೇ ರೀತಿಯಾದ ಅವಕಾಶ ಇಲ್ಲದಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಪ್ರಕರಣದ ಆರೋಪಿಗಳು ಸಾಕ್ಷಿ 34, 35, 36, 37, 38, 39, 40, 41 ರವರುಗಳಿಂದ ಬಿಲ್ಡಿಂಗ್ನ ಬಾಡಿಗೆ/ಲೀಜ್ ಗೆ ಪಡೆದುಕೊಂಡು, ನಂತರ ಬಿಲ್ಡಿಂಗ್ನ ಮಾಲೀಕರಿಗೆ ಆಗಲಿ, ಅಗ್ನಿಶಾಮಕ ದಳ, ಬಿಬಿಎಂಪಿ ಕಚೇರಿಯ ಆಗಲಿ, ಅನುಮತಿ ಇಲ್ಲದೆ ತಮ್ಮ ಅನುಕೂಲಕ್ಕೆ ತಕ್ಕಂತೆ ಬಿಲ್ಡಿಂಗ್ನ ವಿನ್ಯಾಸವನ್ನು ಮಾಡಿಕೊಂಡು, ಸ್ಪಾ ನಲ್ಲಿ Reception ಮತ್ತು ಇತರೆ ಕೆಲಸಕ್ಕೆ 29 ಜನ ಕೆಲಸಗಾರನ್ನು ಇಟ್ಟುಕೊಂಡು, ಸ್ಪಾ ನ Entry, Exit ನ ಎಲ್ಲಾ ಡೋರ್ಗಳನ್ನು ಮತ್ತು ಎಲ್ಲಾ ರೂಂ ಗಳಿಗೂ ಫಿಂಗರ್ ಸ್ಕ್ಯಾನ್ ಲಾಕ್ ಸಿಸ್ಟಮ್ಮು ಇಟ್ಟುಕೊಂಡು, ಹಾಗೂ ಸ್ಪಾ ನಿಂದ ಆಚೆಗೆ ಹೋಗಲು ಒಂದು ವಿಶೇಷ ಸಿಕ್ರೆಟ್ ಲಿಫ್ಟನ್ನು ಮಾಡಿಕೊಂಡಿದ್ದು, ಮಾನವ ಕಳ್ಳಸಾಗಣಿಕೆ ಮಾಡಿಕೊಂಡು ಬಂದ ಮಹಿಳೆಯರು/ಹುಡುಗಿಯರನ್ನು ಕೂಡಿ ಹಾಕಿಕೊಂಡು ಹೈ ಟೇಕ್ ವೇಶ್ಯಾವಾಟಿಕೆ ದಂದೆಯಲಿ, ತೊಡಗಿಸಿ ಅಕ್ರಮ ಹಣ ಸಂಪಾದಣೆ ಮಾಡುತ್ತಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ನಿರ್ವಾಣ ಇಂಟರನಾಷಿನಲ್ ಪ್ರೈ.ಲಿ ಸ್ಪಾ ಗೆ 1ನೇ ಆರೋಪಿಯಾದ ಅನಿಲ್ ಕುಮಾರ್@.ಅನಿಲ್ ರೆಡ್ಡಿ ಮತ್ತು 2ನೇ ಆರೋಪಿಯಾದ ವಿನೀಶ್ ವಿಜಯ್ ರವರುಗಳು ಡೈರೆಕ್ಟರ್ ಆಗಿರುವುದು ದಾಖಲಾತಿಗಳ ಮೂಲಕ ಮತ್ತು ವಿಚಾರಣೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ, ಆದ್ದರಿಂದ ಪ್ರಕರಣದ 1 & 2ನೇ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಕಲಂ 370 ಐಪಿಸಿ 3 4 5 ಐಟಿಪಿ ಆಕ್ಟ್ ಹಾಗೂ 66 (ಡಿ) ಐಟಿ ಆಕ್ಟ್ ರೀತ್ಯಾ ಈ ದೋಷಾರೋಪಣಪಟ್ಟಿಯನ್ನು ಘನ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಿವೇಧಿಸಿಕೊಂಡಿರುತ್ತದೆ.

ನಿವೇಧನೆ:-1)ಕಲಂ 173(8) ಪ್ರಕರಣದಲ್ಲಿ ಇತರೆ ಸಾಕ್ಷಾದಾರಗಳನ್ನು ಮತ್ತು ದಾಖಲಾತಿಗಳು ವಿಚಾರಣೆ ಸಂದರ್ಭದಲ್ಲಿ ಹಾಜರ್ಪಡಿಸಲಾಗುವುದು, 2]ದಿನಾಂಕ:-06-01-2024 ರಂದು ಸ್ಪಾ ಮೇಲೆ ದಾಳಿ ಸಂದರ್ಭದಲ್ಲಿ ವಿನೀಶ್ ವಿಜಯ ರವರನ್ನು ಗ್ರಾಹಕರನ್ನಾಗಿ ದಾಳಿ ಪಂಚನಾಮೆಯನ್ನು ನಮೂದಿದಿದ್ದು, ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಸದರಿ ರವರು ಸ್ಪಾ ಡೈರೆಕ್ಟರ್ ಆಗಿದ್ದು, ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ವೇಶ್ಯಾವಟಿಕೆ ದಂದೆಯಲ್ಲಿ ತೊಡಗಿರುವುದಾಗಿ ಕಂಡ ಬಂದ ಮೇರೆಗೆ ಸದರಿ ರವರನ್ನು ಪ್ರಕರಣದ ಎ-2 ಆರೋಪಿಯಾಗಿರುತ್ತಾರೆ."

The cognizance in Crime No.21 of 2024 is taken upon the charge sheet so filed by the Police. The matter is committed to the Court of Session in S.C.No.1011 of 2024.

12. The issue now would be, whether the order of taking cognizance, where 'B' report is rejected, suffers from procedural aberration? The interpretation of the procedure need not detain this Court for long or delve deep into the matter. The coordinate Bench in **Dr. RAVIKUMAR** *supra* has held as follows:

"…. …. ….

> **5.** The procedure followed by the Learned Magistrate is not in accordance with law. It is well recognized principle of law that, once the Police submit 'B' Summary Report and protest petition is filed to the same, irrespective of contents of the protest petition, the Court has to examine the contents of 'B' Summary Report so as to ascertain whether the Police have done investigation in a proper manner or not and if the Court is of the opinion that the investigation has not been conducted properly, the Court has got some options to be followed, which are,-
>
> **i) The court after going through the contents of the investigating papers, filed u/s 173 of Cr. P.C., is of the opinion that the investigation has not been done properly, the court has no jurisdiction to direct the Police to file the charge sheet however, the Court may direct the Police for re or further investigation and submit a report, which power is inherent under section 156(3) of Cr. P.C., but before taking cognizance such exercise has to be done. This my view is supported by the decisions of the Hon' ble Apex Court in a decision reported in between *Abhinandan Jha* v. *Dinesh Mishra* [AIR 1968 S.C. 117.] (para 15) and also Full Bench decision of Apex Court in between *Kamalapati Trivedi* v. *State of West Bengal* [(1980) 2 SCC 91.] (second head note.)**

ii) If the court is of the opinion that the material available in the 'B' Summary Report makes out a cognizable case against the accused and the same is sufficient to take cognizance, and to issue process, then the court has to record its opinion under Sec. 204 of Cr. P.C., and the Court has got power to take cognizance on the contents of 'B' Summary Report and to proceed against the accused, by issuance of process.

iii) If the court is of the opinion that the 'B' Summary Report submitted by the Police has to be rejected, then by expressing its judicious opinion, after applying its mind to the contents of 'B' report, the court has to reject the 'B' Summary Report.

iv) After rejection of the 'B' Summary Report, the court has to look into the private complaint or Protest Petition as the case may be, and contents therein to ascertain whether the allegations made in the Private complaint or in the Protest Petition constitute any cognizable offence, and then it can take cognizance of those offences and thereafter, provide opportunity to the complainant to give Sworn Statement and also record the statements of the witnesses if any on the side of the complainant as per the mandate of Sec. 200 Cr. P.C.

v) If the court is of the opinion that the materials collected by the police in the report submitted under section 173 of Cr. P.C. are not so sufficient, however, there are sufficient materials which disclose that a cognizable offence has been committed by the accused, the court can still take cognizance of the offence/s under Section 190 read with 200 Cr. P.C. on the basis of the original complaint or the protest petition as the case may be. After taking cognizance and recording sworn statement of the complainant and statements of witnesses if any and also looking into the complaint/Protest Petition and contents therein, if the Magistrate is of the opinion that, to ascertain the truth or falsity of the allegations further inquiry

is required and he thinks fit to post pone the issue of process he can still direct the investigation under section 202 of Cr. P.C., to be made by a Police officer or by such other officer as he thinks fit, to investigate and submit a report, for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused. In the above eventuality, care should be taken that, the case shall not be referred to the Police under section 156(3) of Cr. P.C., once the magistrate takes cognizance and starts inquiring into the matter himself.

vi) After taking such report under section 202 of Cr. P.C., and looking to the entire materials on record, if the magistrate is of the opinion that there are no grounds to proceed against the accused, then the Magistrate is bound to dismiss the complaint or the Protest Petition u/s. 203 of Cr. P.C. as the case may be.

vii) If in the opinion of the Magistrate there are sufficient grounds to proceed against the accused, on examination of the allegations made in the Protest Petition or in the complaint, as the case may be and also after perusal of the sworn statement, then he has to record his opinion judiciously, and issue summons to the accused by exercising power u/s. 204 of Cr. P.C."

The coordinate Bench records 7 postulates of what the Court can do on receipt of 'B' report. If the order passed by the concerned Court in rejecting the 'B' report and taking cognizance is noticed, it is in complete compliance with the postulates stipulated by the coordinate Bench. Therefore, there is no warrant of interference in

the case at hand, particularly in the nature of offences that are alleged.

13. The learned senior counsel has sought to project procedural violation as obtaining under Section 15(2) of the Act. Section 15 of the Act reads as follows:

> "**15. Search without warrant**.—(1) Notwithstanding anything contained in any other law for the time being in force, whenever the special police officer or the trafficking police officer, as the case may be, has reasonable grounds for believing that an offence punishable under this Act has been or is being committed in respect of a person living in any premises, and that search of the premises with warrant cannot be made without undue delay, such officer may, after recording the grounds of his belief, enter and search such premises without a warrant.
>
> **(2) Before making a search under sub-section (1), the special police officer or the trafficking police officer, as the case may be, shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search and may issue an order in writing to them or any of them so to do:**
>
> **Provided that the requirement as to the respectable inhabitants being from the locality in which the place to be searched is situate shall not apply to a woman required to attend and witness the search.**
>
> (3) Any person who, without reasonable cause, refuses or neglects, to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (45 of 1860).

(4) The special police officer or the trafficking police officer, as the case may be, entering any premises under sub-section (1) shall be entitled to remove therefrom all the persons found therein

(5) The special police officer or the trafficking police officer, as the case may be, after removing the person under sub-section (4) shall forthwith produce him before the appropriate magistrate.

(5-A) Any person who is produced before a magistrate under sub-section (5), shall be examined by a registered medical practitioner for the purposes of determination of the age of such person, or for the detection of any injuries as a result of sexual abuse or for the presence of any sexually transmitted diseases.

Explanation.—In this sub-section "registered medical practitioner" has the same meaning as in the Indian Medical Council Act, 1956.

(6) The special police officer or the trafficking police officer, as the case may be, and other persons taking part in, or attending, and witnessing a search shall not be liable to any civil or criminal proceedings against them in respect of anything lawfully done in connection with, or for the purpose of the search.

(6-A) The special police officer or the trafficking police officer, as the case may be, making a search under this section shall be accompanied by at least two women police officers, and where any woman or girl removed under sub-section (4) is required to be interrogated, it shall be done by a woman police officer and if no woman police officer is available, the interrogation shall be done only in the presence of a lady member of a recognised welfare institution or organisation.

Explanation.—For the purposes of this sub-section and Section 17-A, "recognised welfare institution or organisation" means such institution or organisation as may be recognised in this behalf by the State Government.

> (7) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search under this section as they apply to any search made under the authority of a warrant issued under Section 94 of the said Code."

Sub-section (2) of Section 15 holds that a woman must be present at the time of search.

14. The interpretation of Sections 13 and 15 of the Act, which are procedural, need not detain this Court for long or delve deep into the matter.

14.1. The Apex Court in **R.A.H. SIGURAN v. SHANKARE GOWDA[1],** has held as follows:

"…. …. ….

> **6. The High Court allowed the petition as follows: (*Shankare case* [*Shankare Gowda* v. *State*, 2016 SCC OnLine Kar 375: ILR 2016 KAR 3067], SCC OnLine Kar para 14)**
>
> **"*14*. The investigation since not steered by Special Officer appointed by Section 13 of the Act is illegal and vitiated, though the trial has already begun, having noticed the basic infirmity allowing the proceedings to continue any more is abuse of the process of the Court itself. On that count, the**

[1] **(2017) 16 SCC 126**

petition is liable to be quashed under the jurisdiction of Section 482 CrPC.

The petition is allowed. The criminal proceedings in SC No. 219/2013 pending on the file of VIIIth Additional District and Sessions Judge, Bengaluru Rural District, Bengaluru, is hereby quashed."

7. No doubt, this Court in *Ram Singh* [*State (UT of Delhi)* v. *Ram Singh*, (1962) 2 SCR 694: AIR 1962 SC 63: (1962) 1 Cri LJ 106] held by majority that the Act was a complete code and certain provisions of the Act could not be complied with by the regular police. Arrest without warrant may be made only by Special Police Officer under the proviso to Section 14 of the Act and not by a regular police. Search without a warrant can also be done only by a Special Police Officer. Thus, only a Special Police Officer could conduct the investigation.

8. However, this conclusion was not enough for the High Court to quash the proceedings. It is well-settled law that even if investigation is not conducted by authorised officer, the trial is not vitiated unless a prejudice is shown.

9. In *H.N. Rishbud* v. *State (UT of Delhi)* [*H.N. Rishbud* v. *State (UT of Delhi)*, AIR 1955 SC 196: (1955) 1 SCR 1150: 1955 Cri LJ 526] the question considered by this Court was whether after the court takes cognizance, trial can be held to be vitiated merely on the ground that investigation was invalid. Answering in the negative, this Court held that if the plea of invalidity of investigation is raised at sufficiently early stage, the court, instead of taking cognizance, direct reinvestigation by competent investigating officer. But, after cognizance is taken, the trial cannot be quashed for invalidity of investigation.

10. The observations in the said judgment are: (*H.N. Rishbud case* [*H.N. Rishbud* v. *State (UT of Delhi)*, AIR 1955 SC 196: (1955) 1 SCR 1150: 1955 Cri LJ 526], AIR pp. 203-05, paras 9-10)

"***9*. The question then requires to be considered whether and to what extent the trial which follows such investigation is vitiated. Now,**

trial follows cognizance and cognizance is preceded by investigation. This is undoubtedly the basic scheme of the Code in respect of cognizable cases. But it does not necessarily follow that an invalid investigation nullifies the cognizance or trial based thereon. Here we are not concerned with the effect of the breach of a mandatory provision regulating the competence or procedure of the Court as regards cognizance or trial. It is only with reference to such a breach that the question as to whether it constitutes an illegality vitiating the proceedings or a mere irregularity arises. A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. No doubt a police report which results from an investigation is provided in Section 190 of the Code of Criminal Procedure as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the Court to take cognizance. Section 190 of the Code of Criminal Procedure is one out of a group of sections under the heading "Conditions requisite for initiation of proceedings". The language of this section is in marked contrast with that of the other sections of the group under the same heading i.e. Sections 193 and 195 to 199. These latter sections regulate the competence of the Court and bar its jurisdiction in certain cases excepting in compliance therewith. But Section 190 does not. While no doubt, in one sense, clauses (*a*), (*b*) and (*c*) of Section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under clause (*a*) or (*b*) of Section 190(1), (whether it is the one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial. To such a situation Section 537 of the Code of Criminal Procedure which is in the following terms is attracted:

> 'Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the complaint, summons,

> warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any enquiry or other proceedings under this Code, unless such error, omission or irregularity, has in fact occasioned a failure of justice.'

***If, therefore, cognizance is in fact taken, on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice*. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the court for trial is well settled as appears from the cases in *Parbhu* v. *King Emperor* [*Parbhu* v. *King Emperor*, 1944 SCC OnLine PC 1 : AIR 1944 PC 73] and *LumbhardarZutshi* v. *R.* [*LumbhardarZutshi* v. *R.*, 1949 SCC OnLine PC 64 : AIR 1950 PC 26] These no doubt relate to the illegality of arrest in the course of investigation while we are concerned in the present cases with the illegality with reference to the machinery for the collection of the evidence. This distinction may have a bearing on the question of prejudice or miscarriage of justice, but both the cases clearly show that invalidity of the investigation has no relation to the competence of the Court. We are, therefore, clearly, also, of the opinion that where the cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless miscarriage of justice has been caused thereby.**

10. It does not follow, however, that the invalidity of the investigation is to be completely ignored by the Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by ordering such reinvestigation as the circumstances of an individual case may call for. Such a course is not altogether outside the contemplation of the scheme of the Code as appears from Section 202 under which a

Magistrate taking cognizance on a complaint can order investigation by the police. Nor can it be said that the adoption of such a course is outside the scope of the inherent powers of the Special Judge, who for purposes of procedure at the trial is virtually in the position of a Magistrate trying a warrant case. When the attention of the Court is called to such an illegality at a very early stage it would not be fair to the accused not to obviate the prejudice that may have been caused thereby, by appropriate orders, at that stage but to leave him to the ultimate remedy of waiting till the conclusion of the trial and of discharging the somewhat difficult burden under Section 537 of the Code of Criminal Procedure of making out that such an error has in fact occasioned a failure of justice. It is relevant in this context to observe that even if the trial had proceeded to conclusion and the accused had to make out that there was in fact a failure of justice as the result of such an error, Explanation to Section 537 of the Code of Criminal Procedure indicates that the fact of the objection having been raised at an early stage of the proceeding is a pertinent factor. To ignore the breach in such a situation when brought to the notice of the Court would be virtually to make a dead letter of the peremptory provision which has been enacted on grounds of public policy for the benefit of such an accused. It is true that the peremptory provision itself allows an officer of a lower rank to make the investigation if permitted by the Magistrate. But this is not any indication by the legislature that an investigation by an officer of a lower rank without such permission cannot be said to cause prejudice. When a Magistrate is approached for granting such permission he is expected to satisfy himself that there are good and sufficient reasons for authorising an officer of a lower rank to conduct the investigation. The granting of such permission is not to be treated by a Magistrate as a mere matter of routine but it is an exercise of his judicial discretion having regard to the policy underlying it. In our opinion, therefore, when such a breach is brought to the notice of the Court at an early stage of the trial the Court will have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as may be called for, wholly or partly, and by such officer as it considers appropriate with reference to the requirements of Section 5-A of the Act. It is in the light of the above considerations that the validity or otherwise of the objection as to the violation

of Section 5(4) of the Act has to be decided and the course to be adopted in these proceedings, determined."

(emphasis supplied)

11. The above view has been repeatedly followed in subsequent decisions of this Court. In *Union of India* v. *T. Nathamuni* [*Union of India* v. *T. Nathamuni*, (2014) 16 SCC 285: (2015) 3 SCC (Cri) 411], the position was discussed as follows: (SCC pp. 289-92, paras 12-17)

"*12*. It is clear that in the case of investigation under the Delhi Special Police Establishment Act, an officer below the rank of Inspector cannot investigate without the order of a competent Magistrate. In the present case, order of the Special Judge was obtained by filing an application. That order dated 24-9-2009 shows that it was passed on request and in the interest of justice, investigation pursuant to such order did not suffer from want of jurisdiction and hence, in the facts of the case, the High Court erred in law in interfering with such investigation more so when it was already completed.

***13*. The question raised by the respondent is well answered by this Court in a number of decisions rendered in a different perspective. The matter of investigation by an officer not authorised by law has been held to be irregular. Indisputably, by the order of the Magistrate investigation was conducted by the Sub-Inspector, CBI who, after completion of investigation, submitted the charge-sheet. It was only during the trial, objection was raised by the respondent that the order passed by the Magistrate permitting the Sub-Inspector, CBI to investigate is without jurisdiction. Consequently, the investigation conducted by the officer is vitiated in law. Curiously enough the respondent has not made out a case that by reason of investigation conducted by the Sub-Inspector a serious prejudice and miscarriage of justice has been caused. It is well settled that invalidity of the investigation does not vitiate the result unless a miscarriage of justice has been caused thereby.**

14. In *M.C. Sulkunte* v. *State of Mysore* [*M.C. Sulkunte* v. *State of Mysore*, (1970) 3 SCC 513 : 1971 SCC (Cri) 119] , the main question raised by the appellant in an appeal against the order of conviction was that the sanction to investigate the offence given by the Magistrate was not proper inasmuch as he had not recorded any reason as to why he had given permission to the Inspector of Police to investigate the offence of criminal misconduct of obtaining illegal gratification. Considering Section 5-A of the Act, their Lordships observed: (SCC p. 517, para 15)

> `*15*. Although laying the trap was part of the investigation and it had been done by a police officer below the rank of a Deputy Superintendent of Police, it cannot on that ground be held that the sanction was invalid or that the conviction ought not to be maintained on that ground. **It has been emphasised in a number of decisions of this Court that to set aside a conviction it must be shown that there has been miscarriage of justice as a result of an irregular investigation.** The observations in *State of M.P.* v. *Mubarak Ali* [*State of M.P.* v. *Mubarak Ali*, 1959 Supp (2) SCR 201 : AIR 1959 SC 707 : 1959 Cri LJ 920] , SCR at pp. 210-11 to the effect that when the Magistrate without applying his mind only mechanically issues the order giving permission the investigation is tainted cannot help the appellant before us.'

***15*. In *Muni Lal* v. *State (UT of Delhi)* [*Muni Lal* v. *State (UT of Delhi)*, (1971) 2 SCC 48: 1971 SCC (Cri) 407] , this Court was considering the question with regard to the irregularity in investigation for the offence under the Prevention of Corruption Act. Following earlier decisions, this Court held: (SCC p. 52, para 14)**

> **`*14*. From the above proposition it follows that where cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the preceding investigation will not vitiate the result unless miscarriage of justice has been caused thereby and the accused has been prejudiced. Assuming in favour of the appellant, that there was an irregularity in the investigation and that**

> **Section 5-A of the Act, was not complied with in substance, the trial by the Special Judge cannot be held to be illegal unless it is shown that miscarriage of justice has been caused on account of illegal investigation. The learned counsel for the appellant has been unable to show us how there has been any miscarriage of justice in this case and how the accused has been prejudiced by any irregular investigation.'**

16. In *State of Haryana* v. *Bhajan Lal* [*State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426], this Court while considering Section 5-A of the Act, held as under: (SCC pp. 384-85, para 119)

> '*119*. It has been ruled by this Court in several decisions that Section 5-A of the Act is mandatory and not directory and the investigation conducted in violation thereof bears the stamp of illegality but that illegality committed in the course of an investigation does not affect the competence and the jurisdiction of the court for trial and where the cognizance of the case has in fact been taken and the case is proceeded to termination, the invalidity of the preceding investigation does not vitiate the result unless miscarriage of justice has been caused thereby. See (1) *H.N. Rishbud* v. *State (UT of Delhi)* [*H.N. Rishbud* v. *State (UT of Delhi)*, AIR 1955 SC 196 : (1955) 1 SCR 1150 : 1955 Cri LJ 526] , (2) *E.G. Barsay* v. *State of Bombay* [*E.G. Barsay* v. *State of Bombay*, AIR 1961 SC 1762 : (1961) 2 Cri LJ 828] , (3) *Munnalal* v. *State of U.P.* [*Munnalal* v. *State of U.P.*, AIR 1964 SC 28 : (1964) 1 Cri LJ 11] , (4) *Sailendranath Bose* v. *State of Bihar* [*Sailendranath Bose* v. *State of Bihar*, AIR 1968 SC 1292 : 1968 Cri LJ 1484] , (5) *Muni Lal* v. *State (UT of Delhi)* [*Muni Lal* v. *State (UT of Delhi)*, (1971) 2 SCC 48 : 1971 SCC (Cri) 407] and (6) *KhanduSonu Dhobi* v. *State of Maharashtra* [*KhanduSonu Dhobi* v. *State of Maharashtra*, (1972) 3 SCC 786 : 1972 SCC (Cri) 854] . However, in *Rishbud case* [*H.N. Rishbud* v. *State (UT of Delhi)*, AIR 1955 SC 196 : (1955) 1 SCR 1150 : 1955 Cri LJ 526] and *Muni Lal case* [*Muni Lal* v. *State (UT of Delhi)*, (1971) 2 SCC 48 : 1971 SCC (Cri) 407] , it has been ruled that if any breach of the said mandatory proviso relating to investigation is brought to the notice of the court at an early

stage of the trial, the court will have to consider the nature and extent of the violation and pass appropriate orders as may be called for to rectify the illegality and cure the defects in the investigation.'

***17*. In *A.C. Sharma* v. *State (UT of Delhi)* [*A.C. Sharma* v. *State (UT of Delhi)*, (1973) 1 SCC 726: 1973 SCC (Cri) 608] , provisions of Section 5-A were again considered by this Court and held as under: (SCC p. 735, para 15)**

> **'*15*. As the foregoing discussion shows the investigation in the present case by the Deputy Superintendent of Police cannot be considered to be in any way unauthorised or contrary to law. In this connection it may not be out of place also to point out that the function of investigation is merely to collect evidence and any irregularity or even illegality in the course of collection of evidence can scarcely be considered by itself to affect the legality of the trial by an otherwise competent court of the offence so investigated. In *H.N. Rishbud* v. *State (UT of Delhi)* [*H.N. Rishbud* v. *State (UT of Delhi)*, AIR 1955 SC 196 : (1955) 1 SCR 1150 : 1955 Cri LJ 526] , it was held that an illegality committed in the course of investigation does not affect the competence and jurisdiction of the court for trial and where cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the preceding investigation does not vitiate the result unless miscarriage of justice has been caused thereby.** When any breach of the mandatory provisions relating to investigation is brought to the notice of the court at an early stage of the trial the Court will have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as may be called for, wholly or partly, and by such officer as it considers appropriate with reference to the requirements of Section 5-A of the Prevention of Corruption Act, 1947. This decision was followed in *Munnalal* v. *State of U.P.* [*Munnalal* v. *State of U.P.*, AIR 1964 SC 28: (1964) 1 Cri LJ 11] where the decision in *State of M.P.* v. *Mubarak Ali* [*State of M.P.* v. *Mubarak Ali*,

> 1959 Supp (2) SCR 201: AIR 1959 SC 707: 1959 Cri LJ 920], was distinguished. The same view was taken in *State of A.P.* v. *N. Venugopal* [*State of A.P.* v. *N. Venugopal*, AIR 1964 SC 33: (1964) 1 Cri LJ 16] and more recently in *KhanduSonu Dhobi* v. *State of Maharashtra* [*KhanduSonu Dhobi* v. *State of Maharashtra*, (1972) 3 SCC 786: 1972 SCC (Cri) 854]. The decisions [Ed.: The reference is to *Abdul Halim* v. *State of W.B.*, 1960 SCC OnLine Cal 93 : AIR 1961 Cal 257; *Om Prakash* v. *State*, 1964 SCC OnLine P&H 63 : AIR 1964 P&H 407 and *LabhshankerKeshavji* v. *State*, 1954 SCC OnLineGuj 36 : AIR 1955 Sau 42] of the Calcutta, Punjab and Saurashtra High Courts relied upon by Mr Anthony deal with different points: in any event to the extent they contain any observations against the view expressed by this Court in the decisions just cited those observations cannot be considered good law.'
>
> **12. In view of the above, we are satisfied that the High Court was not justified in quashing the proceedings merely on the ground that the investigation was not valid. It is not necessary for this Court to go into the question raised by the learned counsel for the appellants that there was no infirmity in the investigation**."

The Apex Court holds that non-compliance of Section 13 of the Act is not a ground for quashing.

14.2. Following the afore-quoted judgment of the Apex Court in the case of **R.A.H. SIGURAN**, a Division Bench of this Court in the case of **ISMAIL v. STATE**[2], refused to quash proceedings in a similar case. The Division bench holds as follows:

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[2] 2026 SCC OnLine Kar 8901

"…. …. ….

2. The question of law i.e. whether the investigation conducted by an Officer below the rank of Inspector of Police under Section 13(2) of the ITP Act would vitiate the trial, is no more res-integra in view of the authoritative pronouncement by the Supreme Court in *R.A.H. Siguran* v. *Shankare Gowda Alias Shankara*[6].

3. In *R.A.H. Siguran* supra, the Supreme Court relying on the judgment in *H.N. Rishbud* v. *State (UT of Delhi)*[7], held that on a police report vitiated by the breach of a mandatory provision relating to the investigation, there can be no doubt that the result of the trial which follows it cannot be set-aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice.

4. Further, the Supreme Court in the case of ***R.A.H. Siguran*** supra has followed the judgment in *Union of India* v. *T. Nathamuni*[8]. Paragraph Nos. 12 and 13 of the said judgment have been extracted in ***R.A.H. SIGURAN***, which would read as under:

> *"12. It is clear that in the case of investigation under the Delhi Special Police Establishment Act, an officer below the rank of Inspector cannot investigate without the order of a competent Magistrate. In the present case, order of the Special Judge was obtained by filing an application. That order dated 24-9-2009 shows that it was passed on request and in the interest of justice, investigation pursuant to such order did not suffer from want of jurisdiction and hence, in the facts of the case, the High Court erred in law in interfering with such investigation more so when it was already completed.*
>
> *13. The question raised by the respondent is well answered by this Court in a number of decisions rendered in a different perspective. The matter of investigation by an officer not authorised by law has been held to be irregular. Indisputably, by the order of the Magistrate investigation was conducted by the Sub-Inspector, CBI who, after completion of investigation,*

submitted the charge-sheet. It was only during the trial, objection was raised by the respondent that the order passed by the Magistrate permitting the Sub-Inspector, CBI to investigate is without jurisdiction. Consequently, the investigation conducted by the officer is vitiated in law. Curiously enough the respondent has not made out a case that by reason of investigation conducted by the Sub-Inspector a serious prejudice and miscarriage of justice has been caused. ***It is well settled that invalidity of the investigation does not vitiate the result unless a miscarriage of justice has been caused thereby****."*

5. Thus, even if the investigation was carried out by the police officer who was not mandated under the provisions of Section 13(2) of the ITP Act, the trial which follows the investigation cannot be set-aside, unless the illegality in the investigation has resulted in a miscarriage of justice.

6. Whether it has resulted in a miscarriage of justice or not, it has to be pleaded by the accused and the Court has to decide, whether the investigation by an Officer not authorized under Section 13(2) of the ITP Act has resulted in miscarriage of justice. Unless this miscarriage of justice is proved, the trial conducted after investigation by such a police officer would not get vitiated."

14.3. The High Court of Madras in the case of **MANIKANDAPRABU v. STATE OF TAMIL NADU**[3] holds as follows:

"…. …. ….

Whether Section 15(2) ITPA objection is determinative at the threshold:

[3] **Crl.OP(MD).No.21494 of 2025 decided on 02-01-2026**

20. The petitioner's principal attack is on Section 15(2) ITPA. This Court has, in several matters, quashed proceedings where the search was conducted by an officer not competent under the Act and where the statutory safeguards were admittedly ignored (including absence of requisite independent witnesses), especially in cases of search without warrant.

21. However, the approach is not mechanical. The assessment depends on the admitted factual matrix. **Where the issue turns on disputed factual aspects (whether permission/warrant was obtained; whether the search was under Section 15(1) "without warrant"; whether the statutory protocol was substantially complied with; and what prejudice, if any, is demonstrated), the same ordinarily travels into the evidentiary domain.** But in the instant case, the special officer ,who is the complainant had obtained proper permission from the learned Judicial Magistrate II,Madurai to conduct search/raid at room Nos.234 and 235 of Cosmopolitan Hotel in the address mentioned supra.

22. The petitioner's contention as to the exact nature of noncompliance, the effect on the prosecution, and the alleged prejudice, are matters that can be urged before the trial Court by way of appropriate application(s) including discharge, if so advised. This Court cannot, under Section 482, convert the proceeding into a mini-trial."

14.4. The High Court of Allahabad in the case of **PAWAN KUMAR TYAGI v. STATE OF U.P.**[4] holds as follows:

"…. …. ….

4. It is contended by learned counsel for applicant that applicant has been falsely implicated in present case. There is no pre-summoning evidence in the entire Case diary warranting invocation of provision under Section 370 of IPC and Section 3/4 Immoral Traffic (Prevention) Act. Mere presence of any person

[4] **2025 SCC OnLine All 4078**

in spa even if as a customer cannot attract the ingredients of Section 3/4 of I.T.P Act to constitute any offence against the applicant. In the present case, Police Officers have failed to disclose the authority with which they have acted to investigate the offences under the Immoral Traffic (Prevention) Act, 1956. **As per Section 13 of the Act of 1956, the investigation under this Act can only be conducted by Special Police Officers duly designated by the State Government, whereas in the present case there is no such order on basis of which present IO has done the investigation. In the present case, search was conducted in violation of Section 15(2) of Immoral Traffic (Prevention) Act, 1956 as it is mandatory that one of the witnesses to such a search has to mandatorily be a women. In present case, neither the individuals were reputed locals of the locality nor was one of them women. As per provisions of Act of 1956, a customer cannot be prosecuted for any offence under the said Act.**

....

8. After hearing rival submissions extended by learned counsels for the parties and perusing the records, this Court finds that entire arguments whatsoever has been raised by learned counsel for applicant is subject matter of trial. Applicant has already been granted bail. Arguments raised by learned counsel for applicant cannot be taken into consideration, since the same shall culminate as mini-trial by this Court whereas, it has been held by Hon'ble Apex Court, time and again that no mini trial is permissible under the proceedings of 528 BNSS hence instant applications lacks merit hence dismissed."

In the afore-quoted judgments of the Apex Court, Division Bench of this Court and the High Courts of Madras and Allahabad, what would unmistakably emerge is, non-compliance of Sections 13 and 15(2) of the Act are not sufficient grounds for quashing proceedings

under Section 482 of the Cr.P.C/Section 528 of the BNSS. The Apex Court observes that non-adherence to the procedure under Section 13 of the Act can only be detrimental to cognizance if serious prejudice or miscarriage of justice is demonstrated. The High Courts of Madras and Allahabad also observe that the degree of compliance or non-compliance of Sections 13 and 15(2) of the Act can only be determined in the course of trial and therefore cannot form grounds for quashing under Section 482 of the Cr.P.C/Section 528 of the BNSS.

15. In the light of the afore-quoted judgments of the Apex Court, Division Bench of this Court and the High Courts of Madras and Allahabad, as also the fact that the order of taking of cognizance by rejecting the 'B' report is in consonance with law, there is no warrant of interference on the aforesaid score.

16. The last of the submission made by the learned senior counsel is delay in registering the crime for sexual offence. This is a matter of trial. Delay in initiating criminal proceedings, especially in sexual offences, cannot become a ground for quashment of proceedings.

16.1. The Apex Court in the case of **GANESAN v. STATE**[5]**,** while following its earlier judgment rendered in the case of **VIJAY v. STATE OF MADHYA PRADESH** reported in **(2010) 8 SCC 191,** holds as follows:

"…. …. ….

> **10.1.** Whether, in the case involving sexual harassment, molestation, etc., can there be conviction on the sole evidence of the prosecutrix, in *Vijay* [*Vijay* v. *State of M.P.*, (2010) 8 SCC 191: (2010) 3 SCC (Cri) 639], it is observed in paras 9 to 14 as under: (SCC pp. 195-98)
>
> …. …. ….
>
> **11. In State of Punjab v. Gurmit Singh [State of Punjab v. Gurmit Singh, (1996) 2 SCC 384: 1996 SCC (Cri) 316], this Court held that in cases involving sexual harassment, molestation, etc. the court is duty-bound to deal with such cases with utmost sensitivity.** Minor contradictions or insignificant discrepancies in the statement of a prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. **The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof. The Court observed as under: (SCC pp. 394-96 & 403, paras 8 & 21)**
>
> **'8. … The court overlooked the situation in which a poor helpless minor girl had found herself in the company of**

[5] **(2020) 10 SCC 573**

three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix. … The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. … Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. … Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. …

*** * ***

21. … The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it

> **may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations.'**
>
> (emphasis in original)
>
> **12. In State of Orissa v. ThakaraBesra [State of Orissa v. ThakaraBesra, (2002) 9 SCC 86: 2003 SCC (Cri) 1080], this Court held that rape is not mere physical assault, rather it often distracts (sic destroys) the whole personality of the victim. The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case** and in such cases, non-examination even of other witnesses may not be a serious infirmity in the prosecution case, particularly where the witnesses had not seen the commission of the offence.
>
> …. …. ….
>
> 14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix."

16.2. The High Court of Telangana in the case of **GOURA SRISAILAM v. THE STATE OF TELANGANA**[6], holds as follows:

> " …. …. ….
>
> **10. It is very much relevant to mention that in Shreekant Sharma v. State of West Bengal & Anr.- 2023**

[6] **CRL.P.No.12347 of 2026 decided on 19-08-2026**

SCC OnLine Cal 1961, the High Court of Calcutta held that the delay in reporting sexual offences cannot by itself be a ground to quash the proceedings, placing reliance on the principles laid down by the Hon'ble Supreme Court in Satpal Singh v. State of Haryana- (2010) 8 SCC 714, and State of Himachal Pradesh v. Prem Singh- AIR 2009 SC 1010, wherein it was held that delay in lodging F.I.R. in sexual offences is not uncommon due to trauma, stigma and social pressures faced by the victim and her family. The Court also relied upon the judgment of the Hon'ble Supreme Court in Tulsidas Kanolkar v. State of Goa- (2003) 8 SCC 590, wherein it was held that the delay in reporting rape or sexual assault cannot be used as a ritualistic formula to discard the prosecution case and the explanation for such delay must be considered in the surrounding circumstances. Applying the principles governing exercise of inherent powers under Section 482 Cr.P.C. as laid down in Bhajan Lal (supra), the Hon'ble Supreme Court held that the allegations in the F.I.R. disclosed prima facie commission of cognizable offences and did not fall within any of the categories warranting quashing of criminal proceedings. Consequently, the criminal revision petitions were dismissed."

(Emphasis supplied at each instance)

17. In the light of the judicial landscape and the facts glaring enough they are, it would be a matter of trial for the petitioners to come out clean and the offence cannot be nipped at this stage, when the ingredients of offences are made out, *albeit*, *prima facie*.

18. In the result, the petitions lacking in merit stand ***dismissed.*** Interim order if any, operating, shall stand dissolved.

Consequently, pending applications if any, also stand disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

bkp