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CRL OP No. 21658 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

**CRL OP No. 21658 of 2023 &
CrI.M.P.No.14966 of 2023**

Manimegalai
D/o. Dhanasekar, No.56, Ponvizha Nagar,
Karamadai Road, Mettupalayam,
Coimbatore.

..Petitioner(s)

Vs

1. The Inspector Of Police
Karamadai Police Station,
Coimbatore
2. The Sub Inspector Of Police
Karamadai Police Station,
Coimbatore.
3. Ganesh
S/o.Muthusamy, Kallipalayam,
Sikkarampalayam Panchayat,
Karamadai, Coimbatore.

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records connected with the case in FIR No. 545/2023 on the file of the respondent police and quash the same.

For Petitioner(s):

Ms.R.Reni Agnel

For Respondent(s):

Mr.A.Gopinath for R1 and R2
Government Advocate (CrI.Side)
R3- Not ready notice



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ORDER

This Criminal Original Petition has been filed to call for the entire records connected with the case in FIR No. 545 of 2023 on the file of the respondent police and quash the same.

2. The case of the prosecution is that the defacto complainant, who is an auto driver, while riding from Karamadai to Vadamangalakarai, Puthur, on 14.10.2022, at about 2.00 P.M., the petitioner and another person stopped the auto of the defacto complainant and when the defacto complainant enquired about the place of destination, the petitioner informed as Cheran Nagar. Accordingly, the petitioner was dropped at Cheran Nagar, while so, the petitioner called the defacto complainant inside her house and indicated that he can enjoy with the woman, who was inside that house, if he pays a sum of Rs.500/- and the defacto complainant informed that he does not have any cash and ran away from the scene of occurrence. Hence this complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a single parent having three children and the petitioner runs a small-scale tailoring business. The marriage between the petitioner and her husband was solemnised on 06.02.2005 and thereafter, due to extra marital



affair with other person, the petitioner got separated and she is living alone.

The petitioner also lodged a complaint against her husband to the All Women Police Station, Thudiyalur. Thereafter, the petitioner's husband filed a petition for divorce in H.M.O.P.No.43 of 2017 in which, the petitioner also filed a petition for interim maintenance in I.A.No.1 of 2019. The said petition was ordered and the petitioner's husband was directed to pay a sum of Rs.5,000/- as interim maintenance. Further, the 3rd respondent was engaged by an advocate, namely, Udayakumar to lodge the present complaint, in order to escape from the order of Interim Maintenance by defaming and assassinating the petitioner's character.

4. Further, the learned counsel for the petitioner also contended that the 1st respondent failed to follow the mandatory requirements under Section 15 of Immoral Traffic Prevention Act, 1956. This Court in Kadek Dwi Ani Rasmini and Others Vs.K.Natarajan and Others reported in 2019(1) LW CrI 94 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.



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

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

33. Unfortunately, no accountability is fixed on the police to see whether all the requirements of Section 15 are complied with or not. No one calls upon the Special Police Officer or the Trafficking Police Officer

(i) to produce records to show whether he has minuted the grounds of his belief that an offence punishable under the Act is committed or has been committed in respect of a person living in any premises,

(ii) to produce records to show his subjective satisfaction that the search

of the premises with warrant cannot be made without undue delay, (iii) to produce records to show whether two respectable inhabitants of the locality attended and witnessed the search, (iv) to show whether persons removed from such premises were subjected to medical examination and produced before the appropriate Magistrate immediately, and (v) to produce proof to show that two women Police Officers accompanied them and the interrogation of any woman was done only by them.

34. Many times, even persons who are booked under the provisions of this Act, do not appear to challenge the procedure adopted. This is perhaps due to the fact that in most of the cases, the Police find it



convenient to book a person only for an offence under Section 8, which is punishable on first conviction, either with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 5,000/-. Therefore, it appears that people choose to plead guilty and pay the fine even on the first occasion and get off, instead of going through the mill, by facing the prosecution and challenging the procedure followed by the Police. The remedy is seen as worse than the disease.

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

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

5. In the present case on hand also, the investigation was not carried out by the Special Police Officer or Trafficking Police Officer and the Officer, who carried out the investigation was not the authorised officer under Section 15 of the Immoral Traffic (Prevention) Act, 1956. Therefore, it is clear violation of the provision of Section 15 of Immoral Traffic (Prevention) Act, 1956 and hence the entire proceedings become illegal in the eye of Law and liable to be quashed.



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Accordingly, the present Criminal Original Petition is allowed and the entire proceedings in FIR No.545 of 2023 is quashed. Consequently, connected miscellaneous petition is closed.

21-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

ssd

To

1. Inspector Of Police
Karamadai Police Station, Coimbatore.
2. Sub Inspector Of Police
Karamadai Police Station, Coimbatore.
3. The Public Prosecutor,
High Court, Madras



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G.K.ILANTHIRAIYAN, J.

ssd

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