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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 31303 of 2026

CNR:{HCMA012533392026}

and

CRL MP No. 20776 of 2026

Jothish
S/o Jothibasu,
Ambikabavan,
Suranadu North,
Kollam,
Kerala.

..Petitioner(s)

Vs

1. The State Rep By, The Inspector of Police
   B2-Vishnu Kanchi Police Station,
   Kancheepuram.
   Crime No.1109 of 2023
2. Sudhakar
   The Sub Inspector of Police,
   B2-Vishnu Kanchi Police Station,
   Little Kancheepuram.

..Respondent(s)

PRAYER: Criminal Original Petition filed under Section 528 of BNSS praying to call for the records in Charge Sheet in CC.No.868 of 2025 pending on the file of the Learned Judicial Magistrate Court-I, Kancheepuram and quash the same as against the petitioner.

For Petitioner(s): Mr.M.Jaikumar

For Respondent(s): Mr.R.Ganesh Kumar
Additional Public Prosecutor for R1

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ORDER

This petition has been filed to quash the proceedings in CC.No.868 of 2025 pending on the file of the Learned Judicial Magistrate Court-I, Kancheepuram, thereby having been taken cognizance for the offences under Sections 3(2)(a), 4(1), 5(1)(a), 6(1)(a) and 7(1)(a) of the Immoral Traffic (Prevention) Act, 1956.

2.The case of the prosecution is that the de-facto complainant SI Sudhakar of B-2 Vishnukanchi Police Station lodged a special report alleging that A1, Ravin @ Karthick, S/o.Rajakumar was running an establishment under the name and style of "Rakshara Ayurvda Therapy" at Aladi Pillaiar Koil Street, Chinna Kancheepuram and he had procured two women, namely, Bharathi(42), W/o.Balu and Preetha,(22) D/o.Govintharaj by promising them higher remuneration. It is further alleged that the employees, A2 Jothish and A3 Balaji, had engaged the said women in prostitution and collected amounts ranging from Rs.1000/- to Rs.2000/-. On 22.10.2023 at about 1.30 hours, they allegedly solicited the decoy customer, SI Sudhakar for Rs.2,500/- for sexual service at the said premises. Based on the special report lodged by the de-facto complainant, the first respondent registered an FIR in Crime No.1109 of 2023 for the offences punishable under Sections 3(2)(a), 4(1), 5(1)(a), 6(1)(a) and 7(1)(a) of Immoral Traffic (Prevention) Act, 1956. After completion of the

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investigation, the first respondent filed the final report and the same has been taken cognizance by the trial Court.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4. On perusal of the impugned final report and the statements of the witnesses, it is revealed that there are specific allegations against the petitioner, which are sufficient to attract the offence under Sections Sections 3(2)(a), 4(1), 5(1)(a), 6(1)(a) and 7(1)(a) of Immoral Traffic (Prevention) Act, 1956. The veracity of the allegations can be determined only at the stage of trial, upon the appreciation of evidence. The grounds raised by the petitioner involve disputed questions of fact, which cannot be adjudicated at this stage.

5.The Hon'ble Supreme Court of India in the judgment reported in ***2019 (4) SCC 351*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019*** *dated* ***02.04.2019)*** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial

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Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

6.Further, the Hon'ble Supreme Court of India in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated ***17.10.2019***) reported in ***2019 (10) SCC 686,*** held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therfore, this Court has no power to consider the disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

7.The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr,*** held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that consititue certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the

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complaint, even if accepted in entirety, would not consititue the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

8.Further, this Court cannot observe at this stage as to whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained.

9.In view of the above discussion, this Court is not inclined to quash the proceedings in C.C No.868 of 2025 on the file of the learned Learned Judicial Magistrate Court-I, Kancheepuram The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

10.Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

29-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The learned Learned Judicial Magistrate Court-I, Kancheepuram
2. The Inspector of Police
   B2-Vishnu Kanchi Police Station,
   Kancheepuram.
   Crime No.1109 of 2023
3. The Public Prosecutor
   High Court of Madras.

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