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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

Case QR

CRL OP No. 31849 of 2026

CNR:{HCMA012628212026}

AND CRL MP Nos.20997 & 20998 OF 2026

1. Saravanan
   S/o Kannaiyan,
   Karaiyaviduthi Village,
   Vembanpatti Post,
   Gandarvakkottai Taluk,
   Pudukottai.

2. Nesakumar
   S/o Chandrasekar,
   No.10, Mahaveer Nagar,
   Rangapuram,
   Vellore.

..Petitioner(s)

Vs

The State Rep By,
The Inspector of Police,
HUDCO Police Station,
Krishnagiri.
Crime No.217 of 2023.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, praying to call for the records and quash the Charge Sheet in Calander Case No.91 of 2025 on the file of the Judicial Magistrate NO.II, Hosur as against these petitioner and pass such further or other orders.

For Petitioner(s): Mr.N.U.Pressanna
Mr.M.Raja

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

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Order

This Criminal Original Petition has been filed to call for the records and quash the charge sheet in Calender Case No.91 of 2025 on the file of the Judicial Magistrate No.II, Hosur, as against the petitioner.

2.The prosecution case is that, based on secret information regarding prostitution activities at a spa centre, the respondent police conducted a search on 02.07.2023 at the spa named “True Paradise”, owned by the second petitioner/A2, situated at Hosur. At the time of the search, the petitioners and four women working at the spa were present. The said women were cited as witnesses in the final report. They allegedly stated that they were compelled to engage in sexual activities with customers and that Rs.500/- was collected in connection with such activities. Based on these allegations, the respondent police filed a final report against the petitioners for the offences under Sections 3(2)(a), 4(1) and 5(1)(a) of the Immoral Traffic (Prevention) Act.

3.The learned counsel for the petitioners/A1 and A2 would submit that the entire complaint is a false and concocted one and the petitioners were arrested based on the false information received from the defacto complainant and the petitioners are no way connected with the alleged offence and they have not committed any such offence. It is his further submission that the first

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respondent without verifying the veracity of the complaint, registered the case implicating the petitioners as accused and the very registration of the First Information Report against the petitioners is not maintainable. Hence, he submitted that no offence is made out under Sections 3(2)(a), 4(2)(c) and 5(1)(a) of Immoral Traffic [Prevention] Act, 1956.

4.Heard both sides and perused the material placed on record.

5.The main ground raised in the present petition is that the respondent police did not follow the mandatory requirements under Section 15 of the Immoral Traffic (Prevention) Act, 1956. Thus, it is relevant to rely upon the judgment of this Court in ***Kadek Dwi Ani Rasmini and others vs. K. Natarajan and others,*** reported in ***2019 (1) LW Crl. 94***, which is extracted hereunder:

> *6. A careful look at the provisions of Section 15 would show that a Special Police Officer or a Trafficking Police Officer may enter upon any premises and cause a search without warrant, 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*

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(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 situated, 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) 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

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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.

35. 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.

36. The conclusion that we can arrive at, on the basis of the above discussion, is twofold. If the Police carry out a search of the premises where the petitioners are carrying on business activities.

If, after following all the steps prescribed in Section 15, the petitioners cannot come under Article 226, but may have to seek

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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.

6.In the present case also, the inspection was not carried out by the Special Police Officer or the Trafficking Police Officer and the Officer who carried out the inspection was not an authorized officer under Section 15 of the Act. Therefore, if the search and inspection is not carried out by following the procedure prescribed under Section 15 of the Act, the entire proceeding becomes illegal and cannot be sustained in law.

7.Accordingly, this Criminal Original Petition stands allowed and the proceedings in C.C. No.91 of 2025 on the file of the Learned Judicial Magistrate No.II, Hosur, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

03-11-2026

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

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To

1.The Judicial Magistrate No.II,
Hosur.

2.The Inspector of Police,
HUDCO Police Station,
Krishnagiri.

3.The Public Prosecutor,
High Court,
Madras.

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G.K.ILANTHIRAIYAN J.

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