

Crl.OP(MD).No.11074 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**ORDER RESERVED ON : 17.06.2026**

**ORDER PRONOUNCED ON : 03.07.2026**  
**CORAM**

**THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR**

**Crl.OP(MD).No. 11074 of 2026**

M.Vignesh

....Petitioner/Sole Accused

Vs

1.State of Tamil Nadu Rep.by  
The Inspector of Police  
Thallakulam Police Station  
Madurai City  
Crime No.372 of 2025

....1<sup>st</sup> Respondent/Complainant

2.S.Mayil  
The Inspector of Police  
Thallakulam Police Station  
Madurai

...2<sup>nd</sup> Respondent/Defacto  
Complainant

**Prayer:**The Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita Act, 2023, to call for the records pertaining to C.C.No.263 of 2026 on the file of the Judicial Magistrate No.II, Madurai and quash the same as illegal.

**For Petitioner : Mr.T.Balarathinakumar**

**For Respondents : Mr.P.Samuel Gunasingh**  
**Government Advocate (Crl.side) for R1**



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## **ORDER**

**WEB COPY** The present petition has been filed by the sole accused in C.C.No.263 of 2026 on the file of the Judicial Magistrate No.II, Madurai seeking to quash the charge sheet wherein the petitioner is charged with the offence under Sections 3(2)(a), 4(2)(a), 4(2)(c), 5(1)(a) and 5(1)(d) of Immoral Traffic (Prevention) Act, 1956 (ITP Act).

### **(A).Factual Matrix:**

2.A perusal of the charge sheet reveals that the petitioner was running a massage centre in the name and style of 'Blue Moon Spa'. On 24.03.2025 on secret information, the respondent police have sent a person as a customer and found out that prostitution is taking place in the said massage centre. After confirmation of the same, the respondent police have entered into the premises and found that the petitioner was in the reception area and two ladies were found half-nude with two different customers and three ladies were found in another room. It is further alleged that the petitioner had made online advertisement for his massage centre displaying his mobile number and he used to conduct prostitution using local and other State gullible ladies. It is further alleged in the charge sheet that the petitioner was not followed the condition laid down by the High Court. The massage rooms were locked and light was very dim.



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3.The above said charge sheet is put to challenge by the petitioner herein on the following grounds.

a)The respondent herein is not a Special Police Officer as defined under Sections 2(i) & 2(j) of the Immoral Traffic (Prevention) Act, 1956 (ITP Act) and therefore, the case registered and investigated by the present respondent is without jurisdiction.

b)The search has been conducted without following the mandatory provisions under Section 15(2) of ITP Act and in such circumstances, the search being vitiated, the charge sheet laid on the basis of the said search is liable to be quashed.

**(B).Submissions of the learned counsels appearing on either side:**

4.The learned counsel for the petitioner had submitted that he is running a Spa after obtaining appropriate permission from the concerned authority namely from the Madurai Corporation as well as from the Commissioner of Police, Madurai City.

5.For violation of Section 15(2) of ITP Act, the learned counsel for the petitioner had relied upon the following decisions of this Court:

(i) **2019 SCC Online Mad 23** (*Kadek Dwi Ani Rasmini Vs. K.Natarajan, Inspector of Police and others*) dated 02.01.2029;

(ii) **Crl.OP(MD).No.14059 of 2021** (*Balamurugan and another Vs.State of Tamil Nadu, Inspector of Police, Nesamani Nagar Police Station*)



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*and another) dated 18.03.2022;*

**WEB COPY (iii)Crl.OP(MD).No.15863 of 2020** ( *Mathan Franko and others*

*Vs.State of Tamil Nadu Rep.by the Inspector of Police, Nesamony Nagar Police Station, Kanyakumari District and another) dated 03.04.2024;*

**(iv)Crl.OP(MD).No.3657 of 2024** ( *B.Manju and others Vs.The State of Tamil Nadu Rep.by the Inspector of Police, Arlvoimozhi Police Station, Kanyakumari District*) dated 11.09.2025;

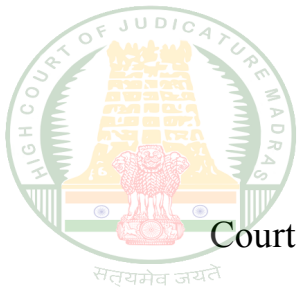
**(v)Crl.OP(MD).No.18737 of 2025** (*Lawrance Vs. State of Tamil Nadu, Rep. by the Inspector of Police, Vadaseri Police Station, Nagercoil*) dated 28.10.2025;

**(vi)Crl.OP(MD).No.17554 of 2025** ( *Palaniyappa Perumal Vs. State of Tamil Nadu, Rep.by the Inspector of Police, Perumalpuram Police Station, Tirunelveli District and another*) dated 03.11.2025;

**(vii)Crl.OP(MD).No.15586 of 2025** (*Jeyasri Vs. The State of Tamil Nadu, Rep.by the Inspector of Police, Karaikudi North Police Station, Sivagangai District* ) dated 05.11.2025;

6.The learned counsel has submitted that in all these cases for non-compliance of Section 15(2) of ITP Act, the charge sheets have been quashed.

7.Per contra, the learned Government Advocate (Crl.side) appearing for the respondent police had relied upon the decision of the Hon'ble Supreme



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Court reported in **1969 (1) SCC 43 ( Bai Radha Vs. The State of Gujarat)**

and contended that the violation of Section 15 (2) of ITP Act does not make trial illegal or vitiated, unless some prejudice is shown to have been caused to the accused person. He also relied upon a decision of this Court in **Crl.OP.No.922 of 2021 ( Hema Jwaalini and others Vs.The Commissioner of Police, Chennai City Police Commissionerate, Vepery, Chennai and others)** dated 29.04.2022 and contended that Section 15(2) of ITP Act would be applicable only if the search is conducted in a residential place. The present search having been conducted in a commercial place, even assuming that Section 15(2) has been violated, the same cannot be a ground for quashing of the charge sheet.

8.The learned Government Advocate (Crl.side) has also relied upon a decision of this Court in **Crl.OP.No.6295 of 2024 (Balaji Vs. State Rep.by the Inspector of Police, Mylapore Police Station, Chennai)** dated 16.07.2024 and **Crl.OP(MD).No.21494 of 2025 ( Manikandaprabu Vs. State of Tamil Nadu Rep.by the Inspector of Polcie, Thilagar Thidal Police Station, Madurai City and another)** dated 02.01.2026 in support of his contention.

9.Heard the learned counsel appearing on either side and perused the material records.



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**(C).Discussion:**

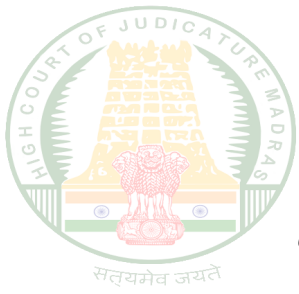
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10.As far as the plea of the petitioner that the Inspector of Police of regular police station is not a competent authority to conduct search is concerned, the issue has already been considered by this Court in Crl.OP(MD).No.922 of 2021 dated 29.04.2022 wherein a learned Judge of this Court was pleased to point out G.O.Ms.618, Social Welfare Department, dated 13.04.1987 wherein the Government of Tamil Nadu had appointed every police officer not below the rank of Inspector of Police to be the Special Police Officers for dealing with the offences under Suppression of Immoral Traffic in Women and Girls Act, 1956. In such circumstances, the contention of the learned counsel for the petitioner that the regular Inspector of Police cannot be treated as a Special Police Officer under the Act cannot be countenanced.

11.As far as the contention of the learned counsel that the non-compliance of Section 15(2) of ITP Act is concerned, it has to be considered whether following of the procedure for conducting search as contemplated under Section 15(2) is required for a commercial premises or not.

12.Sections 15(1) and 15(2) of Immoral Traffic (Prevention) Act, 1956 are extracted as follows:

***“15.Search without warrant.—(1).Notwithstanding***



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*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.]”*

13.A careful perusal of Section 15(1) clearly points out that the circumstances under which search without warrant can be conducted by a police officer. It is applicable only when an offence is being committed in respect of a person living in any premises. Section 15(2) lays down the number of respectable inhabitants who have to accompany the concerned police officer while conducting such a search.



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14. Section 15(2) ITP Act clearly points out that this procedure has to be followed only for making a search under Section 15(1) of ITP Act.

Therefore, Sections 15(1) and 15(2) have to be read together. If they are read together, it is clear that Section 15(2) has to be followed with regard to number of witnesses at the time of search, only if the search is conducted where persons are living, that is a residential premise. The provisions under Section 15(2) is inserted only to protect the victim who are present in the premises. Therefore, the said provisions cannot be cited by the accused person to contend that the search was not conducted as per Section 15(2) of ITP Act. That apart, in the present case, the premises that was searched, is a massage centre, for which the petitioner has obtained a trading license and the petitioner is also an assessee under GST Act.

15. The Hon'ble Supreme Court in a judgment reported in **1969 (1) SCC 43 ( Bai Radha Vs. The State of Gujarat )** had an occasion to consider Section 15(1) and 15(2) of the Suppression of Immoral Traffic in Women and Girls Act, 1956. The operative portion of the judgment of the Hon'ble Supreme Court is extracted as follows:

*“In conclusion, it may be observed that the investigating agencies cannot and ought not to show complete disregard of such provisions as are contained in sub-sections (1) and (2) of Section 15 of the Act. The legislature in its wisdom provided special safeguards owing to the nature of the premises which have to be searched*



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*involving inroads on the privacy of citizens and handling of delicate situations in respect of females. But the entire proceedings and the trial do not become illegal and vitiated owing to the non-observance of or non-compliance with the direction contained in the aforesaid provisions. The court, however, has to be very careful and circumspect in weighing the evidence where there has been such a failure on the part of the investigating agency but unless and until some prejudice is shown to have been caused to the accused person or persons the conviction and the sentence cannot be set aside.....”*

16.A careful perusal of the judgment of the Hon'ble Supreme Court reveals that owing to non-observance or non-compliance of Section 15(2) of the Act, the trial do not become illegal and vitiated. The Hon'ble Supreme Court had further pointed out that unless and until some prejudice is shown to have been caused to the accused person or persons, the conviction and the sentence cannot be set aside. In such circumstances, it is clear that only during the trial, it could be established whether any prejudice was caused to the accused due to non-compliance of Section 15(2) of IPL Act, if at all, the same is applicable to the premises in which search was conducted.

17.In the light of the above said facts, it is clear that Section 15(2) of ITP Act would not be applicable only for the search conducted in the residential premises. In the present case, even assuming that Section 15(2) of ITP Act is applicable, the non observance and non compliance of the same,



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has to be adjudicated before the trial Court, establishing prejudice on the part of the accused person due to the non-compliance of the same.

18. In view of the above said deliberations, there are no merits in this petition. This Criminal Original Petition stands dismissed.

**03.07.2026**

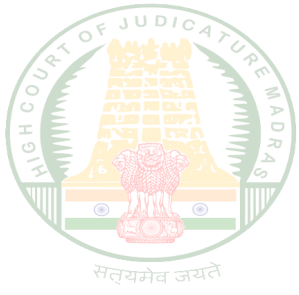
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To

1.The Judicial Magistrate No.II  
Madurai.

2.The Inspector of Police  
Thallakulam Police Station  
Madurai City  
Crime No.372 of 2025

3.The Additional Public Prosecutor  
Madurai Bench of Madras High Court,  
Madurai



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**R.VIJAYAKUMAR, J.**

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