



Crl.OP(MD)No.21494 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 02.01.2026**

**CORAM**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**Crl.O.P.(MD).No.21494 of 2025**

**and**

**Crl.M.P.(MD).Nos.18496 and 18498 of 2025**

Manikandaprabu

... Petitioner/Accused No. 2

**Vs.**

1. State of Tamil Nadu Rep by,  
The Inspector of Police,  
Thilagar Thidal Police Station,  
Madurai City.  
(Crime No. 731/2019)

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

2. Hema Mala

... 2<sup>nd</sup> Respondent /  
*De-facto Complainant*

**Prayer:** Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records connected with the case in C.C.No. 540 of 2021 pending on the file of the learned Judicial Magistrate II, Madurai and quash the same as illegal as against the petitioner.

For Petitioner : Mr.A.Prabhu Raj

For R-1 : Mr.M.Sakthi Kumar,  
Government Advocate (Crl. Side)



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**ORDER**

Criminal Original Petition filed under Section 482 Cr.P.C., 1973 / Section 528 BNSS, 2023, praying to call for the records relating to the charge sheet in C.C.No.540 of 2021 on the file of the learned Judicial Magistrate No.II, Madurai, arising out of Crime No. 731 of 2019, and quash the same insofar as the petitioner (A2) is concerned.

***Prologue:***

2. The offence alleged in the present case transcends a mere statutory infraction and touches the core of constitutional values. Prostitution sustained through trafficking, coercion, or inducement is not a private moral issue but a grave societal crime that undermines human dignity and social justice. Such organised exploitation, particularly of vulnerable women, has far-reaching consequences on public order, gender equality, and the collective conscience of society.

3. Article 23 of the Constitution of India expressly prohibits trafficking in human beings and all forms of forced labour, casting a



positive obligation on the State and constitutional Courts to prevent, prosecute, and eradicate such exploitation. Complementarily, Article 39(e) mandates that State policy ensure that the health and strength of women are not abused and that economic necessity does not compel citizens to enter exploitative or degrading avocations. Trafficking of women under the guise of employment or service directly offends both these constitutional commands.

4. The Immoral Traffic (Prevention) Act, 1956, is therefore a constitutional response to these mandates, intended not merely to punish individual wrongdoing but to dismantle organised structures of exploitation. Courts, while exercising inherent jurisdiction at the threshold, must remain alive to this constitutional purpose, lest premature interference results in the dilution of the fight against trafficking and the erosion of the constitutional promise of dignity, equality, and women empowerment.

5. It is against this constitutional backdrop that the allegations in the present case, the statements of the victims, and the role attributed to the accused are required to be examined. The gravity of



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the offence alleged demands a careful, cautious, and constitutionally informed judicial approach, ensuring that the shield of inherent jurisdiction is not converted into a sword against the very objectives the Constitution seeks to achieve.

6. This Criminal Original Petition is filed seeking quashment of the final report in C.C.No.540 of 2021 (arising out of Crime No.731 of 2019) insofar as the petitioner, who is arrayed as Accused No.2, is concerned. The offences alleged are under Sections 3(1), 4(1), 4(2)(a), 4(2)(c) and allied provisions of the Immoral Traffic (Prevention) Act, 1956 (herein after referred to as “ITPA”), besides allied allegations arising from the raid and the statements recorded.

***Case of the Prosecution (as reflected in FIR/Final Report):***

7. The *de facto* complainant is an Inspector of Police attached to the Anti-Trafficking Wing, Madurai. On receipt of information regarding alleged immoral trafficking activities in Room Nos.234 and 235 of Cosmopolitan Hotel, near Madurai Railway Station, a search was conducted on 16.09.2019 around 12.40 p.m., along with women police personnel and other staff.



8. The final report alleges that the premises were used under the guise of “massage/spa”, with online advertisements, and that women were sourced/recruited from other States and were allegedly compelled/induced into prostitution under the cover of massage services. Two victims are stated to have given statements under Section 161 Cr.P.C., 1973, as L.W.10 and L.W.11. On completion of investigation, a final report came to be filed, which was taken cognizance as C.C.No.540 of 2021.

***Grounds for Quash:***

9. The petitioner asserts that he was only a receptionist, aged about 20 years at the time, and that he had no knowledge of the alleged activities. It is alleged that he was asked to act as a witness for the raid; upon refusal, he was arrayed as A2. The principal legal attack is that the raid/search did not comply with the mandatory safeguards under Section 15(2) ITPA, particularly the requirement of calling two respectable inhabitants, at least one being a woman, to witness the search; and that only one independent witness is cited. The petitioner also relies on precedents holding that confession of a co-accused cannot, by itself, be treated as substantive evidence



against another accused, and that in the absence of independent incriminating material, continuance of prosecution would be an abuse of process.

***Submissions:***

10. The learned counsel for the petitioner relying upon the case in ***R.Saravana Kumar and another vs. State and another<sup>1</sup>***, would submit that the petitioner's implication is largely derivative and not supported by independent material, and that the non-compliance of Section 15(2) ITPA goes to the root, warranting quashment at the threshold.

11. Reliance is placed, *inter alia*, on the decisions of this court reported in (i)2025 SCC Online Mad 8799 in Sindhu case , (ii)2020 SCC Online Mad 26250 in Manimaran case, (iii)2017 SCC Online Mad 30681 in G.Sowmiya case and (iv)2019 SCC Online Mad 33751 which reiterate (i) the limited evidentiary value of a co-accused confession against another accused, and (ii) the significance of compliance with statutory safeguards in ITPA searches.

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<sup>1</sup>2020 SCC Online Mad 11028



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12. Per contra, the learned Government Advocate (Crl. side) would submit that the final report and the case diary disclose *prima facie* materials, including the victim statements (L.W.10 & L.W.11), the seizure, and the alleged role attributed to the petitioner in facilitating the operation.

13. It is further submitted that questions as to procedural compliance (including Section 15(2)) and the evidentiary worth of materials are matters for trial, and that this Court ought not to undertake a roving enquiry under Section 482 Cr.P.C., 1973. The prosecution places reliance on the approach adopted by this Court in Crl.O.P.(MD)No.133 of 2022 dated 25.04.2022 and Crl.O.P.No.922 of 2021 dated 29.04.2022 ,where the Court has recognized the effect of Government Orders appointing Inspectors of Police as Special Police Officers for ITPA purposes, and has declined to quash solely on that ground.

14. Heard the learned counsels on either side and carefully perused the materials available on record.



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***Point for determination:***

15. The point that arises for consideration is whether the prosecution in C.C.No.540 of 2021 insofar as the petitioner/A2 is concerned is liable to be quashed at the threshold under Section 482 Cr.P.C., 1973, /Section 528 BNSS, 2023, either for alleged non-compliance of Section 15(2) ITPA or for want of prima facie materials?

***Analysis:***

***Scope of Section 482 Cr.P.C. / Section 528 BNSS:***

16. The inherent jurisdiction is to be exercised sparingly to prevent abuse of process or to secure the ends of justice. At the stage of quashment of a final report, the Court is required to examine whether the uncontroverted allegations and the materials collected disclose the commission of offences and whether continuation would be an abuse of process.



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***Trafficking allegations are qualitatively distinct from “routine vice” cases:***

17. This case is not projected as a mere instance of an isolated immoral act. The prosecution case is that the operation was structured through online solicitation, collection of customers, and, importantly, recruitment/induction of women from other States into sexual exploitation under the guise of massage services.

18. Inter-State trafficking is a grave societal offence. It fractures women’s autonomy, violates dignity, and turns human beings into commodities. It also undermines the constitutional promise of women empowerment, by coercing vulnerable women into a cycle of exploitation, stigma, and violence. The law therefore treats such conduct not as a private wrong, but as a public crime with deep societal consequences.

***Victim statements (L.W.10 & L.W.11) are material at the threshold:***

19. The final report specifically refers to victim statements recorded under Section 161 Cr.P.C. (L.W.10 & L.W.11). At the quash



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stage, this Court cannot discard such statements by weighing credibility as in a trial. The existence of victim statements, coupled with the prosecution narrative of inducement and exploitation, constitutes *prima facie* material sufficient to allow the prosecution to proceed to trial.

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

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



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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 non-compliance, 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.

***Distinguishing the “customer” line of cases:***

23. This Court has quashed ITPA proceedings in cases where the materials showed that the petitioner was, at best, a customer, and the invoked sections did not cover the alleged role and/or where the search itself was demonstrably vitiated pertaining to the same



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crime in F.I.R.No.731 of 2019 in Crl.O.P.(MD) No.18066 of 2022,  
decided on 21.09.2023.

24. The present case is pleaded differently wherein the petitioner is shown as A2 allegedly facilitating the operation and the prosecution relies on victim statements and other materials. Therefore, the petitioner cannot, at this stage, claim parity with “customer” cases merely by asserting that he was a receptionist.

***Co-accused confession argument:***

25. The legal position that a co-accused confession is not substantive evidence against another accused is well-settled. Nevertheless, in the present case, the prosecution asserts that there are independent materials, including the victims’ statements. Therefore, the question whether the petitioner is implicated “only” by a co-accused confession is itself a matter of appreciation of record which is more appropriately left to the trial process.



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**Sentencing-Policy / Public Interest Paragraph  
(Trafficking):**

26. Human trafficking and sexual exploitation strike at the core of human dignity under Article 21. The Hon'ble Supreme Court has repeatedly recognized trafficking/prostitution-linked exploitation as a societal evil that warrants robust State response through prevention, prosecution, and rehabilitation, while ensuring victim-centric safeguards, more particularly in ***Vishal Jeet v. Union of India*<sup>2</sup>** and ***Gaurav Jain v. Union of India*<sup>3</sup>**. The Hon'ble Apex Court has also emphasized that persons in prostitution are often victims of structural vulnerability and deserve rehabilitation and dignity in ***Budhadev Karmaskar v. State of West Bengal*<sup>4</sup>** and subsequent orders.

27. Trafficking networks often operate through deception, inducement, and coercion, including inter-State movement of women. Such crimes corrode social order, derail women's empowerment, and perpetuate violence and inequality. Courts,

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<sup>2</sup> (1990) 3 SCC 318

<sup>3</sup> (1997) 8 SCC 114

<sup>4</sup> (2011) 10 SCC 283



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therefore, must ensure that prosecutions involving trafficking are not scuttled at the threshold unless the case is demonstrably frivolous or legally untenable. The rule of law demands that trafficking be curbed with iron hands, alongside a victim-centric approach to protection and rehabilitation.

28. For the foregoing reasons, this Court is of the view that the materials placed disclose *prima facie* case for the alleged offences, and the petitioner's objections, particularly on procedural compliance and evidentiary worth are not such as to warrant exercise of inherent powers at this stage.

29. It is open to the petitioner to raise all permissible contentions before the trial Court, including by filing an appropriate petition for discharge/other relief in accordance with law. The trial Court shall consider the same on its own merits, uninfluenced by any observations made herein, which are confined to the disposal of this quash petition.



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30. In view of the seriousness of the allegations involving trafficking and sexual exploitation, and keeping in mind the statutory obligations cast upon the State under the Immoral Traffic (Prevention) Act, 1956, this Court deems it appropriate to issue the following additional direction in the interest of justice and victim protection:

The Investigating Officer / Special Police Officer concerned shall appear in person before this Court and file a detailed status report on 28.01.2026, indicating the present status of the victims cited as L.W.10 and L.W.11, including:

- (i) whether the victims were produced before the appropriate Magistrate in accordance with law;
- (ii) whether they were accommodated in a recognised Protective / Shelter Home as contemplated under the provisions of the ITP Act;
- (iii) whether steps were taken for their rehabilitation, counselling, medical care, and vocational or skill-based training, as mandated under the Act and the relevant Government Schemes; and
- (iv) the current welfare status of the victims as on date.



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31. The said report shall also disclose the coordination, if any, with the Social Welfare Department / District Child Protection Unit / recognised NGOs, and the steps taken to ensure that the victims are not re-trafficked or subjected to further exploitation.

32. This direction is issued in furtherance of the constitutional mandate under Articles 23 and 39(e) and the victim-centric framework of the Immoral Traffic (Prevention) Act, 1956, and shall be complied with scrupulously.

33. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

34. Post the matter on **28.01.2026**, for reporting compliance.

**02.01.2026**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
Sml

***Note: Issue order copy on 20.01.2026.***



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To

- 1.The Judicial Magistrate II,  
Madurai.
- 2.The Inspector of Police,  
Thilagar Thidal Police Station,  
Madurai City.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**L.VICTORIA GOWRI, J.**

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