

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

CrI.OP(MD).Nos. 21999 of 2024 & 573 of 2025
and CrI.MP(MD).Nos.13641 of 2024 & 371 of 2025

CrI.OP(MD).No.21999 of 2024

1.Y.Gnana Ganesh

2.T.Muruganantham

...Petitioners/Accused Nos.3 & 4

Vs

1.State of Tamil Nadu Represented by
The Inspector of Police
Anna Nagar Police Station
Madurai City
Crime No.708 of 2024

2.Ms.Hema Mala
Inspector of Police
AHRU/ACTU
Madurai City

...Respondent No.2/Defacto Complainant

CrI.OP(MD).No.573 of 2025:

1.S.Prem Kumar

2.S.Ponraj

...Petitioners/Accused Nos.1 an 2

Vs

1.State Represented by
Inspector of Police
Anna Nagar Police Station
Madurai City
Crime No.708 of 2024

....Respondent No.1

2.Ms.Hema Mala
Inspector of Police
AHRU/ACTU
Madurai City

...Respondent No.2/Defacto Complainant

Prayer in Crl.OP(MD).No.21999 of 2024:The Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita Act, 2023, to call for the records pertaining to the First Information Report in Crime No. 708 of 2024 dated 04.11.2024 on the file of the Respondent No.1 and quash the same as illegal as against the petitioners.

Prayer in Crl.OP(MD).No.573 of 2025:The Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita Act, 2023, to call for the records pertaining to the First Information Report in Crime No.708 of 2024 dated 04.11.2024 on the file of the Respondent No.1 and quash the same as illegal as against the petitioners.

(In both petitions)

For Petitioners : Mr.T.Lajapathi Roy
Senior Counsel for M/s.Roy & Roy Associates

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

COMMON ORDER

These two petitions have been filed by Accused Nos.1 to 4 in Crime No.708 of 2024 on the file of the Inspector of Police, Anna Nagar Police Station, Madurai City seeking to quash the F.I.R dated 04.11.2024 wherein they are alleged to have committed offences under Sections 3(2)(a), 4(2)(c), 5(1)(d), 6(1)(b) of Immoral Traffic Act, 1956 (ITP Act).

(A).Factual Matrix:

2.A perusal of the F.I.R reveals that on receipt of secret information on 04.11.2024 at about 1.45 p.m, the Special Sub Inspector of Police and two lady Head-Constables, after obtaining permission from the Assistant Commissioner of Police, have conducted a search in a Spa at Anna Nagar, Madurai. During search, it was found that two victim girls from Nagaland and Assam were found in half-nude position in two rooms where there were no facilities for conducting massage. There were no proper lighting and the rooms were kept locked from inside at the time of inspection. When it was enquired with the ladies found there, they informed that, under the guise of engaging them in the profession of massage, they have been brought here and compelled to indulge in prostitution.

3.Accused Nos.1 and 2 are the manager and the receptionist of the Spa

and Accused Nos.3 and 4 are the partners who are running the Spa. Challenging the said F.I.R, the present petitions have been filed seeking to quash the same.

(B).Contentions of the learned counsel appearing on either side:

4.The learned Senior Counsel appearing for the petitioners submitted that the search was not conducted by the Special Police Officer as contemplated under Section 13 of ITP Act. The search have been conducted by a regular Police, is clearly without jurisdiction and the same is liable to be set aside.

5.The learned Senior Counsel had further contended that as per Section 15(2) of ITP Act, before making a search under Section 15(1), the Special Police Officer has to call for two or more respectable inhabitants (at least one of whom shall be a woman) of that locality to attend and witness the search. However, in the present case admittedly two or more respectable inhabitants have not accompanied before the officials. The said procedure being mandatory in nature and the search having been conducted in violation of the statutory provisions, the F.I.R registered on the basis of the said search is liable to be quashed.

6.The learned Senior Counsel had relied upon a judgment of this Court reported *(2019) 1 CTC 385 (Kadek Dwi Ani Rasmini Vs. K.Natarajan,*

Inspector of Police and others) wherein in paragraph Nos. 27 and 28, this Court was pleased to point out that the procedure contemplated under Section 15(2) is mandatory and having not been followed was pleased to quash the proceedings.

7.The learned Senior Counsel has also relied upon the following decisions rendered by this Court:

(i)**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;

(ii)**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;

(iii)**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;

(iv)**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;

(v) **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;

8.The learned Senior Counsel had also relied upon a decision of the Hon'ble Supreme Court reported in **2026 INSC 609** (***Prajwala Vs. Union of India and others***) dated **29.05.2026** especially Paragraph No.362 Clause (b) (Initiation of rescue): Clause (x) and submitted that the mandatory nature of Section 15(2) of ITP Act has been upheld by the Hon'ble Supreme Court and contended that in the present case, admittedly there being violation of the procedure contemplated under Section 15(2) of ITP Act, an F.I.R is liable to be quashed.

9.The learned Senior Counsel had also relied upon a Division Bench Judgment of this Court in **W.A.No.457 of 2020** (***K.Natraja Vs. Ms.Kadek Dwi Ani Rasmini and others***) dated 18.07.2024 wherein the judgement reported in **(2019) 1 CTC 385** has been confirmed. He specifically pointed out Paragraph Nos.14 and 15 of the said Division Bench Judgement in support of his contention.

10.The learned Senior Counsel appearing for the petitioners had also

relied upon the affidavit of five rescued victim girls, all dated 24.12.2024 and submitted that the police officials have threatened and obtained the statement from them on the date when search was conducted. In the said affidavit, it is stated that their signature was obtained in a statement which was in a language unknown to them and they were unable to understand and read and write Tamil language. By coercive way, they obtained signature from them. Relying upon the said affidavit, the learned Senior Counsel had contended that the statement of the alleged victim girls under Section 161 (3) Cr.P.C has been obtained by force and they have been threatened to sign the statement which was prepared in a language not known to them and therefore, it is clear that the entire allegation in the F.I.R is completely false and a case has been foisted as against the Spa. Hence, he prayed for quashing of the F.I.R as against all the accused persons.

11. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that after receiving secret information about the prostitution business in the premises, under the guise of running a massage centre, three lady police officers have conducted search and found that there were not indication of conducting massage and rooms were in a locked condition and the victim girls were found half-nude position when the Police Officers knocked the doors.

12.The learned Government Advocate (Crl.side) had further submitted that all the victims were having knowledge in English and the statements were recorded in English. The present affidavit obtained by the accused persons from the victim girl after registration of F.I.R would not have any evidenciary value. Based upon the said affidavit, the F.I.R cannot be quashed.

13.The learned Government Advocate (Crl.side) appearing for the respondents had further submitted that under G.O.Ms.618, Social Welfare Department, dated 13.04.1987, the State Government has pointed out every police officers not below the rank of the Inspector of Police to be the Special Police Officers under Section 13 of the ITP Act. In the present case, only the Inspector of Police along with three other lady Police Officers have conducted the search and therefore, there is no violation of Section 13 of ITP Act.

14.The learned Government Advocate (Crl.side) had also relied upon the two decisions of this Court in ***Crl.OP(MD).No.133 of 2022 (Arun Vs. State represented by the Inspector of Police, Ganesh Nagar Police Station, Pudukkottai District and another)*** dated 25.04.2022 and ***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 wherein two Learned Judges of this Court have taken note of the said

Government Order and have dismissed the quash petitions, rejecting the contentions that the Special Police Officer has not conducted search.

15.The learned Government Advocate (Crl.side) had also relied upon the decision of the Hon'ble Supreme Court reported in **1969 (1) SCC 43 (Bai Radha Vs. The State of Gujarat)** especially the last paragraph and contented that any violation of Sections 15(1) and 15(2) of ITP Act, would not vitiate the proceedings unless and until some prejudice is shown to have been caused to the accused person. According to him, this Judgment was not brought to the notice of the other Hon'ble Benches which have dealt with similar cases.

16.According to the learned Government Advocate (Crl.side), the alleged prejudice due to non-observance of Section 15(2) of ITP Act could be proved only during trial and the said ground cannot be a subject matter of the quash petition. He had also contended that Section 15(2) of ITP Act has been legislated only for the purpose safeguarding the privacy of the victim ladies. Even assuming that there was any violation, the same cannot be taken advantage of by the accused person and seek quashing of the F.I.R or the charge sheet on the said ground.

17.The learned Government Advocate (Crl.side) had further contended that the procedure under Section 15(2) of the Act has to be followed only if

the premises to be searched is a residential premises. He relied upon Paragraph No.30 of the Order in Crl.OP.No.922 of 2021 dated 29.04.2022 and Paragraph No.3 of the Order in Crl.OP.No.6295 of 2024 dated 16.07.2024 in support of his contention. Therefore, according to him, when a commercial premises like that of Spa is being searched following the said procedure would not arise.

18.The learned Government Advocate (Crl.side) had further submitted that the petitioners have applied for No Objection Certificate from the Superintendent of Police and the same was rejected in the Month of May 2024 and the writ petition filed against the same is pending. The search has been conducted in the Month of November 2024. Therefore, it is clear that without obtaining any NOC from the jurisdictional police, the Spa has been conducted by the petitioners herein and in such circumstances, the petitioners cannot rely upon any judgment of this Court. Hence, he prayed for dismissal of the petition.

19.Heard the learned counsels appearing on either side and perused the material records.

(C).Discussion.

20.Based upon the submissions made on either side, the following issues arise for consideration;

a)Whether the regular Police can be considered to be a Special Police Officer as contemplated under Section 13 of the ITP Act to conduct a search or arrest without warrant as contemplated under Sections 14 and 15 of the ITP Act?

b)Whether it is mandatory to follow the safeguard under Section 15(2) of ITP Act in respect of a search conducted in a commercial premises.?

c)If the procedure contemplated under Section 15(2) of ITP Act is mandatory, whether non-observance or non-compliance of the same would vitiate the registration of F.I.R or the charge sheet?

d)Whether affidavit filed on behalf of the victims after registration of F.I.R can be taken into consideration?

21.The Special Police Officer as contemplated under Section 13 of

ITP Act:

(i).The Tamil Nadu Government had issued G.O.Ms.618, Social Welfare Department, dated 13.04.1987 exercising their powers under Section 13 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 thereby appointing every police officer not below the rank of Inspector of Police to be the Special Police Officers for dealing with the offences under

Immoral Traffic (Prevention) Act, 1956. Under the said order, the Government has further pointed out that every Police Officer (including a women Police Officer wherever necessary) not below the rank of Jurisdictional Subordinate Police Officer to assist the Special Police Officer concerned.

22.In the light of the above said Government Order, it is clear that the Inspector of Police has been appointed as Special Police Officer under Section 13 of ITP Act. In the present case, a perusal of the F.I.R reveals that the Inspector of Police, Anti-Human and Child Trafficking Unit (AHTU), Madurai City along with the lady Special Sub Inspector and two lady Head-Constables had conducted a search in the Spa. In such circumstances, this Court is of the considered opinion that the police officials having jurisdiction alone have conducted the search and therefore, the ground raised in these lines by the learned Senior Counsel, cannot be countenanced.

23. Whether procedure contemplated under Section 15(2) is mandatory in respect of commercial premises:

(i).Sections 15(1) and 15(2) of Immoral Traffic (Prevention) Act, 1956 are extracted hereunder for better appreciation:

“15.Search without warrant.—(1).Notwithstanding 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.]”

(iii).Our High Court in a judgment reported in **(2015) 1 CTC 702 (Mr.S.Rangaraj & others V.s The Commissioner of Police Chennai City, Chennai and others)** while considering Section 15 was pleased to observe as follows:

Paragraph No.28 of the said judgment is extracted hereunder:

“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;”

(iv).Another learned Judge of this Court while considering Section 15(2) of ITP Act in a judgment reported in 2022 SCC Online Mad 1960 (Hema Jwaalini and others Vs.Commissioner of Police and others) in Paragraph Mno.30 has held as follows:

“30.The nature of place under search viz., residential or commercial has got some impact in compliance of Section 15(2) of the Act and when it happens to a residential place, the safeguard provided by Section 15(2) of the Act comes into play whereas, in the case on hand, the place where the search was conducted is not a residential one and it is only a commercial place. “

(v).Another learned Judge of this Court in a judgment rendered in ***Crl.OP.No.6295 of 2024 (Balaji Vs. State Rep.by the Inspector of Police, E-1***

Mylapore Police Station, Chennai) dated 16.07.2024 in Paragraph No.3 has held as follows:

“3.It is contending that the mandatory provision of Section 15(1) of Immoral Traffic (Prevention) Act, 1956 not been complied with, the present petition is filed to quash the FIR. The protection from conducting search or raid of a living place if any person alone is been restricted under Section 15(1) of Immoral Traffic (Prevention) Act, 1956 and not a commercial premises.....”

24.A careful perusal of Section 15(1) of the Act reveals that when a Special Police Officer has reasonable grounds for believing an offence punishable under ITP Act is being committed in respect of a person living in any premises, they can conduct search without warrant after recording his grounds of belief. Section 15(2) points out that before making a search under Section 15(1), the special police officer shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of that locality to attend and witness the search. Therefore, it is clear that the procedure contemplated under Section 15(2) of the Act for calling upon two or more respectable inhabitants to attend the witness search would arise, only if the premises referred to under Section 15(1) of the Act is going to be searched. The premises referred to under Section 15(1) of the Act is a place where a person living. Hence, it is clear that the procedure contemplated

under Section 15(2) of the Act would apply only with regard to the residential premises and not to a commercial premises. This finding is supported by the decisions of this Court by three other Learned Judges cited supra.

25.The Hon'ble Supreme Court in a judgment reported in **1969 (1) SCC 43 (Bai Radha Vs. The State of Gujaraj)** while considering Section 15(1) and 15(2) of ITP Act, in the final paragraph has held 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 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.....”

26.In the judgment of the Hon'ble Supreme Court cited supra, it has been pointed out that the legislature in its wisdom provided special

safeguards owing to the nature of the premises which have to be searched involving inroads on the privacy of citizens and handling of delicate situations in respect of females.

27.The object and purpose of Section 15(2) of ITP Act is to protect the privacy of the victim and to prevent conducting avoidable searches in the residential premises which may bring disrepute to the inmates of the building in that locality. The said provision is not in any way meant to protect the rights of the accused persons who are found to be involving in procuring the victim girl or conducting a brothel house. Therefore, when a purposive interpretation is given to Section 15(2) r/w Section 15(1) of ITP Act, the persons accused of the offence under ITP Act would not be entitled to raise such a defence, especially for the purpose of quashing of the F.I.R or the charge sheet on the said ground.

28.Whether non-observance of procedure contemplated under Section 15(2) of ITP Act could be a ground for quashing of the F.I.R or the charge sheet.?

(i).The Hon'ble Supreme Court in Bai Radha case cited supra has pointed out that the entire proceedings or trial do not become illegal or vitiated owing to non-observance of or non-compliance of Section 15(1) and 15(2) of the Act, but the trial Court has to carefully consider the case of failure to follow Sections 15(1) and 15(2) of ITP Act.

(ii).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, the conviction or the sentence cannot be set aside. Therefore, it is clear that the prejudice that is alleged to have been caused to the accused person due to non-observance of Section 15(2) of the Act has to be established and the same can be done only during trial. In such circumstances, the contention of non-observance of Section 15(2) of ITP Act cannot be raised as a ground for quashing of the F.I.R or the charge sheet.

29.Affidavit of the victims:

(i).A stereotyped affidavits sworn by the victim girls rescued from the Spa premises have been filed wherein the victim girls have stated that the statements were recorded in a language unknown to them and they were threatened by the police to sign the statement. As rightly pointed out by the learned Government Advocate (Crl.side), the statement of the victim girls has already been recorded by the Jurisdictional Magistrate under Section 164 of Cr.P.C. In such circumstances, the affidavit now annexed to the quash petition, cannot be relied upon to disbelieve the case of the prosecution and the same could only be subject matter of trial.

30.The Judgements cited by the learned Senior Counsel appearing for the petitioners have not taken into consideration the Judgment of the Three

Judges Bench of the Hon'ble Supreme Court cited supra, (*Bai Radha's case*) and therefore, this Court is not inclined to follow the other judgments cited by the petitioners, wherein Bai Radha's case has not been brought to their notice.

31.No Objection Certificate from police and licence from local body:

(i).As per Rule 299 of the Tamil Nadu Urban Local Bodies Rules, 2023 (which came into force on 12.04.2023), the petitioner is bound to obtain a licence for running a Spa. As contemplated Rule 299(6), No Objection Certificate from the Commissioner of Police, having jurisdiction over the area has to be obtained before granting of any licence. In the present case, the petitioner had applied for No Objection Certificate to the jurisdictional police and the same was rejected in May 2024. Challenging the same, the petitioners had preferred a writ petition and the same is pending. However, the petitioner has continued to run the Spa without NOC from the police or a licence from the concerned local body. The search has been conducted in November 2024, when Spa was conducted without any licence or NOC from the respondent police. In such circumstances, the judgments relied upon by the learned counsel for the petitioners would not come to the rescue, wherein the Spas were conducted after obtaining proper licence.

(D).Conclusion:

32.In view of the above said deliberations, there are no merits in the petitions and both the Criminal Original Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed.

03.07.2026

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

To

1.The Inspector of Police
Anna Nagar Police Station
Madurai City
Crime No.708 of 2024

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

R.VIJAYAKUMAR, J.

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CrI.OP(MD).Nos. 21999 of 2024 & 573 of 2025
and CrI.MP(MD).Nos.13641 of 2024 & 371 of 2025

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