



CGHC010238752023



2026:CGHC:35938

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1613 of 2023

1 - Xyz Nill

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Its Secretary, Ministry Of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District : Raipur, Chhattisgarh

2 - Superintendtn Of Police, Raipur, District : Raipur, Chhattisgarh

3 - The Station House Officer, Police Station, Telibandha, Raipur, District : Raipur, Chhattisgarh

... Respondent(s)

(cause title taken from CIS)

For Petitioner(s) : Mr. Raza Ali, Advocate

For Respondent(s) : Ms. Anusha Naik, Dy. Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

13.08.2026

1. Heard Mr. Raza Ali, learned counsel for the petitioners. Also heard Ms. Anusha Naik, Dy. Govt. Advocate appearing for the State/ respondent.

2. The petitioner has filed the present CrMP under Section 482 of CrPC, and prayed for the following reliefs:-

“It is, therefore, prayed that this Hon'ble Court may be pleased to exercise its inherent jurisdiction under Section 482 of Cr.P.C. and in exercise thereof admit the petition, call for the records and after hearing the parties in the matter, quash the entire charge sheet including the FIR bearing no. 493/2022 for the offences under section 3, 4, 5 & 7 of Act of 1956 registered at respondent no. 3 police station and in consequences quash the criminal proceedings in Criminal Case No.4121/2023 (State vs. Viplav Chaughariya & Ors) pending before the JMFC, Raipur, so far as it relates to petitioner herein, being abuse of process of court and abuse of process of law and also in violation of petitioner's fundamental rights and in peculiar factual matrix of case and further the provide respondent pleased compensation to the petitioner for wrongful detention to direct to and wrongful prosecution, in interest of justice.”

3. The present petition has been filed by the petitioner seeking quashing of FIR No. 493/2022 registered at Police Station Telibandha, Raipur, and the consequential criminal proceedings arising therefrom, including Criminal Case No. 4121/2023, for offences punishable under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956. The petitioner submits that she was neither present nor residing at Hotel Hayat, Raipur, when the police conducted the alleged raid and that she was subsequently called to the police station and falsely implicated in the case. Though the petitioner was arrested and later released on bail by the learned CJM, Raipur, the police, despite allegedly assuring her that no charge-sheet would be filed against her, subsequently filed the charge-sheet against her and other accused persons. The petitioner

further relies upon the directions issued by the Hon'ble Supreme Court in Criminal Appeal No. 135/2010 vide order dated 19.05.2022, particularly the directions that consensual adult sex workers are entitled to equal protection of law and that, during a raid on a brothel, voluntary sex workers should not be arrested, penalised, harassed or victimised. It is therefore contended that the registration of the FIR, arrest of the petitioner and continuation of the criminal proceedings are contrary to the aforesaid directions and amount to abuse of the process of law. The petitioner also disputes the applicability of Sections 3, 4, 5 and 7 of the ITPA to the allegations made against her and relies upon the principles laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, as reiterated in *Sundar Babu & Ors. v. State of Tamil Nadu*, (2009) 14 SCC 244, contending that the proceedings fall within the categories warranting exercise of the inherent jurisdiction of this Hon'ble Court for quashing the criminal proceedings.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that neither was she present at Hotel Hayat, Raipur, at the time of the alleged raid nor was she involved in any activity constituting an offence under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956. It is further submitted that the registration of the FIR, arrest of the petitioner and filing of the charge-sheet are contrary to the directions issued by the Hon'ble Supreme Court vide order dated 19.05.2022 in Criminal Appeal No.135/2010, particularly the directions protecting the rights and dignity of adult consenting sex workers. Learned counsel further submits that the allegations contained in the FIR and the material collected during investigation do not disclose the essential ingredients

of the offences alleged against the petitioner and, therefore, continuation of the criminal proceedings would amount to abuse of the process of law and infringement of her fundamental right to liberty. It is accordingly prayed that FIR No.493/2022, the consequential charge-sheet and Criminal Case No.4121/2023 pending before the learned JMFC, Raipur, be quashed in exercise of the inherent jurisdiction of this Court.

5. On the other hand, learned State counsel, opposing the petition, submits that the FIR was registered pursuant to the information received by the police regarding the alleged commission of offences under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956, and after conducting investigation, the charge-sheet has been filed against the petitioner and other co-accused persons. It is further submitted that the allegations against the petitioner are supported by the material collected during investigation and the same cannot be examined in detail at this stage in exercise of the inherent jurisdiction of this Court. Learned State counsel further submits that the petitioner has an efficacious opportunity to raise all her factual and legal defences before the learned trial Court and that the disputed questions regarding her presence at the place of occurrence and the evidentiary value of the material collected by the investigating agency can be adjudicated only during trial. It is therefore submitted that no exceptional circumstance is made out warranting interference at this stage and the petition is liable to be dismissed.
6. We have heard learned counsel for the parties and perused the documents annexed with the petition.

7. From perusal of the record, it appears that the petitioner is a major woman who has been charge-sheeted for the offences punishable under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956, in connection with FIR No.493/2022 registered at Police Station Telibandha, Raipur, and the consequential Criminal Case No.4121/2023 pending before the learned Judicial Magistrate First Class, Raipur. The specific case of the petitioner is that she was neither residing at nor present in Hotel Hayat, Raipur, at the time of the alleged raid and that she has been falsely implicated by the police.

8. The Hon'ble Supreme Court in the matter of ***Budhadev Karmaskar Vs. State of West Bengal & Others*** in ***Criminal Appeal No. 135/2010, dated 19.05.2022***, in para (i) and (iii) held as under :-

"(i) Sex workers are entitled to equal protection of the law. Criminal law must apply equally in all cases, on the basis of 'age' and 'consent'. When it is clear that the sex worker is an adult and is participating with consent, the police must refrain from interfering or taking any criminal action.

(iii) Whenever there is a raid on any brothel, since voluntary sex work is not illegal and only running the brothel is unlawful, the sex workers concerned should not be arrested or penalised or harassed or victimised."

9. In the aforesaid case, while exercising powers under Article 142 of the Constitution of India, the Hon'ble Supreme Court accepted and directed implementation of various recommendations concerning the rights and dignity of sex workers. In particular, the Hon'ble Supreme Court directed that sex workers are entitled to equal protection of law and that criminal law must apply equally on the basis of age and consent,

further, where it is clear that the sex worker is an adult and is participating with consent, the police must refrain from interfering or taking any criminal action. The Hon'ble Supreme Court further directed that whenever there is a raid on any brothel, since voluntary sex work is not illegal and only running the brothel is unlawful, the sex workers concerned should not be arrested, penalised, harassed or victimised.

10. In the present case, the allegations against the petitioner, even as projected by the prosecution, are essentially that she was a sex worker and was found in connection with the alleged activities at Hotel Hayat. The petitioner has specifically disputed her presence at the place of occurrence and has asserted that she was not staying in or present at Hotel Hayat at the relevant time. More importantly, the material placed on record does not disclose any specific allegation demonstrating that the petitioner was engaged in any independent act which would constitute the ingredients of the offences alleged against her, apart from the allegation regarding her status as a sex worker. The directions issued by the Hon'ble Supreme Court in ***Budhadev Karmaskar (supra)*** are required to be kept in view while examining the legality of continuation of criminal proceedings against an adult woman merely on account of her alleged involvement as a sex worker. The said judgment continues to be recognised by the Hon'ble Supreme Court, including in its subsequent judgment in ***Prajwala v. Union of India 2026 LiveLaw (SC) 574***, wherein the Court reiterated that voluntary sex workers are not to be harassed or victimised during raids on brothels.
11. It is also significant that this Court, while considering the prayer for interim relief on 25.07.2023, had already examined the allegations

against the petitioner in the light of the aforesaid judgment of the Hon'ble Supreme Court and recorded a finding that a strong case was made out for staying the further proceedings. Since thereafter no material has been brought on record to demonstrate any substantial change in the factual or legal position so as to warrant a different conclusion, the interim order deserves to be given final effect. Continuation of the criminal proceedings against the petitioner, in the facts of the present case, would serve no useful purpose and would amount to subjecting an adult woman to the very harassment and victimisation against which the Hon'ble Supreme Court has issued specific directions.

12. Having regard to the totality of the facts and circumstances of the case, the allegations levelled against the petitioner, the material collected during investigation, the fact that the petitioner has specifically disputed her presence at the alleged place of occurrence, and more particularly the binding directions issued by the Hon'ble Supreme Court in ***Budhadev Karmaskar case (Supra)***, decided on 19.05.2022, this Court is of the considered opinion that continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of law. The case of the petitioner therefore warrants interference in exercise of the inherent jurisdiction of this Court.
13. Consequently, the petition is **allowed**. FIR No.493/2022 registered at Police Station Telibandha, Raipur, for offences punishable under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956, the consequential charge-sheet and Criminal Case No.4121/2023 (State Vs. Viplav Chaughadiya & Others) pending before the learned Judicial Magistrate First Class, Raipur, insofar as it relates to the present

petitioner (accused No. 3 in the FIR as well as final report), is concerned, are hereby quashed. The interim order dated 25.07.2023 shall stand merged with the present final order.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice