



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO.890/2024 (F)**

MAHENDRA SALGAONKAR

S/o Shri Pradeep Salgaonkar,

35 years of age, business,

R/o H.No.42, Paliem,

Ucassaim, Bardez, Goa.

... PETITIONER

Versus

1. STATE, through Police Inspector,
Crime Branch, Ribandar PS,
Panaji, Goa.

2. THE PUBLIC PROSECUTOR,
High Court of Bombay at Goa,
Porvorim-Goa.

... RESPONDENTS

Mr C. A. Ferreira, Senior Advocate with Mr S. Kamulkar, Mr
Rakesh Naik and Mr N. Govekar, Advocates for the Petitioner.

Mr S. Karpe, APP for the State with Adv. Ms S. Vaigankar.

CORAM: ASHISH S. CHAVAN, J.**Reserved on: 26th FEBRUARY 2026****Pronounced on: 9th MARCH 2026**

JUDGMENT :

1. By way of the present Petition, the Petitioner has invoked the inherent jurisdiction of this Court to quash and set aside an order dated 17.01.2024 passed by learned Sessions Judge, North Goa, inter alia directing charges to be framed against the Petitioner for offences punishable under Sections 370, 370-A(2) of IPC and Sections 3, 4, 5 and 7 of Immoral Traffic (Prevention) Act, 1956.

2. The brief chronology of events necessary to appreciate the factual matrix in the background is as follows:

(i) A written complaint was filed by PI Neenad Deulkar, the Complainant, then attached to the CID Crime Branch, Ribandar, Goa, on 09.08.2014 on behalf of the State against the Petitioner and other persons. On the basis of the said complaint, an FIR bearing No.47/2014, dated 09.08.2014 was registered by North Goa CID.

(ii) The complaint narrates that on 09.08.2014, at about 16.00 hrs., the Complainant received information from reliable source that the Petitioner, along with three other persons, are running a massage parlour under the name and style of Venus and Mars Salon-Spa-Body Care in a building on the first floor at Mapusa and has employed girls who are carrying out prostitution by way of cross massage. They are earning money out of prostitution and that apart from giving regular massage, **special/extra/hand massage** which

are the terms usually used for prostitution are given to the customers by the girls employed in the said Spa on payment of extra money. On instructions from superior officers, the Complainant decided to lay a trap under the provisions of Immoral Traffic (Prevention) Act, 1956. A decoy customer was arranged and given cash of Rs.2,000/- (four notes of Rs.500/-), serial numbers of which were noted down.

(iii) Thereafter, the Complainant along with the raiding party reached Mapusa. The decoy customer along with the currency notes went to the Spa whereas the Complainant along with the raiding party waited on the ground floor of the building. After ten to fifteen minutes, pre-decided signal was given by the decoy customer, acting on which the raiding party entered the Spa. They noticed one male person sitting at the table counter who disclosed his name as Mahendra Salgaonkar (the Petitioner). He also disclosed that he was running the said Spa. On taking search, it was seen that there were two small rooms with partitions. In one room, a female was seen with the decoy customer whereas, in the other room, another customer was waiting for massage.

(iv) The Petitioner, upon being asked, disclosed that there was one more shop on the same floor where there were four small rooms having cot with bed in which customers with females were in each room. The raiding party went to the said shop and found that all four customers were without clothes. The four victims were rescued. The victim giving

massage/full body massage to the decoy customer was searched by lady constable and cash of Rs.500/- was recovered from her. The note numbers were tallied to find that it was the same note which was given by the decoy customer to her in return for extra massage. The complaint further records that in the same room a packet of condoms was also found. Further, search of the counter table revealed cash of Rs.4,800/-. Three notes of Rs.500/- which were tallying with the serial numbers of the notes given to the decoy customer, were found in the cash box at the counter table.

(v) The personal search of the Petitioner and the other customers was taken. The recovered cash, mobile phones, computers, etc. were seized.

3. After registration of the FIR, the police commenced investigation, the statements of the victim girls were recorded, they were produced before SDM, Mapusa to pass order under Section 70(3) of Immoral Traffic (Prevention) Act, 1956. During the course of further investigation, the statements of SP - Crime and the staff who had accompanied the said raid along with the decoy customer were recorded. Correspondence from the Directorate of Health Services and Goa State Pollution Control Board (GSPCB) revealed that the said Spa was not registered with GSPCB and no license was issued to the said Spa by the Directorate of Health Services, Panaji. The investigation was concluded and final report was filed on 31.12.2014. In all, nine

accused were arraigned in the final report. The Petitioner is the Accused No.1.

4. In 2017, this Court quashed the charge-sheet as against Accused Nos.7, 8 and 9 primarily on the ground that their names do not appear in the complaint or the accompanying charge-sheet. Insofar as Accused Nos.2 to 6 were concerned, they challenged the order of the Trial Court directing to frame charge against them and this Court, vide its order dated 15.07.2024, quashed the order framing charge against Accused Nos.2 to 6 on the ground that they were customers and hence the offences under the Immoral Traffic (Prevention) Act, 1956 and IPC relating to trafficking would not apply to them.

5. Heard Mr C. A. Ferreira, Senior Advocate for the Petitioner and Mr S. Karpe, learned APP for the State.

6. Rule. Rule is made returnable forthwith at the request of and with the consent of the learned counsel for the parties.

7. On behalf of the Petitioner, it was contended that the order of the learned Trial Court directing to frame charge against the Petitioner was palpably erroneous. The learned Trial Court failed to appreciate that no grounds were made out for framing charge in the present case. There is nothing on record to suggest that the rescued victim girls indulged in prostitution. That none of the ingredients of any of the offences are made out on a bare perusal of the charge-sheet. That the statements of the rescued victims clearly reveal that they were not forced to do any sexual activity or

prostitution nor were they indulging in any prostitution voluntarily. There is no statement to support the allegation that the victims were living out of the earning of prostitution. The complaint and the scene of offence panchanama reveals that there was CC Tv camera for each cubicle. However, no CC Tv recording was taken or obtained by the police during or after the raid. It was urged on behalf of the Petitioner that this is a fit case warranting interference by this Court to quash and set aside the order directing framing of charge. It was also urged that this Court has quashed the charge-sheet against Accused Nos.7 to 9 and quashed the order framing charge against Accused Nos.2 to 6. It was submitted that the role of the present Petitioner is identical to the co-accused who were discharged and consequently the principles of parity would apply in favour of the present Petitioner. The Petitioner relied on the judgments namely *State of Bihar v/s. Jagrup Singh - 1963 SCC OnLine Pat 38*, *Mr X v/s. State of Kerala - 2009 SCC OnLine Ker 6407*, *K. Radhakrishnan v/s State of Kerala - 2008 SCC Online Ker 101*, *Asim Sharif v/s. National Investigating Agency – (2019) 7 SCC 148* and *Ajay Malik v/s State of Uttarakhand – 2025 SCC OnLine SC 184* in support of his submissions.

8. On behalf of the State, it was argued that the complaint, scene of offence panchanama, the statement of the decoy customer and the admitted position that the Petitioner was managing the Spa was sufficient material to frame the charge against the Petitioner. Stray statements of the victim girls cannot be taken at face value more so since the aspect of whether the victim girls were sexually exploited, induced, indulged in

prostitution or not is largely a matter of trial being a disputed question of fact. On behalf of the Respondent-State, reliance was placed on the judgments namely *State of Rajasthan v/s. Ashok Kumar Kashyap – (2021) 11 SCC 191* and *Order dated 11.01.2024 in Criminal Application No.445/2023 (Dhananjay v/s. State of Maharashtra)* in support of his submissions.

9. With the assistance of the learned Senior Advocate Mr Ferreira and learned APP Mr Karpe, I have perused the record of the case. The complaint read in conjunction with the statement of the decoy customer, demonstrate that the information received by the police on the basis of which the raid was carried out was clear and specific, that prostitution was being carried out in the aforesaid Spa by way of cross massage by girls who were employed in the Spa for giving full body massage to male customers. The information was also that apart from giving regular massage, special/extra/hand massage which are the terms which are usually used for prostitution was also being given to the customers by the girls in the said Spa on payment of extra money.

10. The statement of the decoy customer reveals that he was given marked notes for carrying out the raid. He states that when he entered the Spa, the owner-cum-manager, i.e. the Petitioner, was seated at the table counter. The Petitioner informed the decoy customer that the massage will cost him Rs.1,500/- and that nice females will be provided for massage with closed door rooms. The decoy customer paid the marked currency of Rs.1,500/- to the Petitioner. He was provided one female (victim girl) by the Petitioner and he was asked to remove his clothes and

lay down on the bed. After a few minutes while the female (victim girl) was giving him massage, he requested her for extra/special massage for which she agreed and requested for extra money. The decoy customer paid her Rs.500/- from the marked notes. Thereafter, he gave the pre-decided signal and the raiding party entered the said premises. During the course of the raid, the amount of Rs.500/- was recovered from the personal search of the victim girl and amount of Rs.1,500/- was recovered from the cash counter which was in possession of the Petitioner. The note numbers were tallied and found to be the same. The complaint notes that the place where these activities were carried out, is a public place at Mapusa. The scene of offence panchanama also corroborates the complaint and the statement of the decoy customer. The charge-sheet also has a copy of the trade license (Form A) issued by the Mapusa Municipal Council in favour of the Petitioner.

11. The sum and substance of the argument of the Petitioner rests on a two-fold submission. Firstly, that the statements of the victim girls do not disclose that they were exploited or procured to carry on prostitution and secondly, that there is no material on record to show that any prostitution activities were being carried out at the time of the raid on the said premises.

12. The statements of the victim girls are more or less stereotypical in nature. They say that they get a fixed salary and commission per customer in return of the massage services. They also say that in the said Spa there are only female masseurs who give massage to male clients. In their statements, there is no

specific allegation of forced sexual exploitation or prostitution or trafficking. However, when juxtaposed with the statements of the Complainant and the decoy customer, there is *prima facie* material to show that one of the victim girls had accepted an additional amount over and above the amount taken by the Petitioner for massage. This additional amount was accepted by the victim girl after she agreed for extra/special/hand massage. Section 370 of the IPC, which deals with the offence of trafficking, makes it an offence to recruit, transport, harbour, transfer or receive a person by using threats or force or any other form of coercion or by abduction or by practising fraud/deception or by abuse of power or by inducements. The first explanation to the said Section sets out an inclusive definition of the expression “exploitation”. It states as under:-

“Explanation 1. - The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.”

13. The definition of the expression “exploitation” is not an exhaustive definition but an inclusive one. Thus, whether a particular act would come under the definition of the expression “exploitation” would depend upon the facts of each case.

14. The second Explanation states that the consent of the victim is immaterial in determining the offence of trafficking. Although it was strenuously argued on behalf of the Petitioner that the statements of the victims do not make out a case under

the Immoral Traffic (Prevention) Act, 1956 or under Section 370 of IPC, if the statements are viewed in the backdrop of the complaint, the statement of the decoy customer and the scene of offence panchanama, there is prima facie material to indicate that the victim girl requested and accepted an amount of Rs.500/- for extra/special/hand massage. Pertinently, the said note which was accepted by the victim girl was found and recovered in her personal search. Moreover, in the said room one packet having condoms was also recovered during the raid. What was the nature of this extra/special/hand massage can be determined only when evidence is led during trial.

15. Further, the charge-sheet reveals that the said Spa is in a public place at Mapusa, the Petitioner had told the decoy customer that females will be provided for massage with closed door rooms. The decoy customer had paid him the marked notes of Rs.1,500/- which were recovered from the cash counter during the raid. It is not in dispute that the Petitioner was the licensee of the said premises and the trade license issued by the Mapusa Municipal Council was also in his name.

16. Dealing with the judgments relied on behalf of the Petitioner, the Patna High Court in the case of *State of Bihar v/s. Jagrup Singh (supra)* was dealing with an appeal against acquittal, after a full-fledged trial where in the facts of the case, there was no evidence on record to attract the provisions of Suppression of Immoral Traffic Act. In the matter of *Mr X v/s. State of Kerala (supra)*, the Kerala High Court dealt with Sections 3 and 4 of the Immoral Traffic (Prevention) Act, 1956. However, the facts in the

said case are inherently different from the facts in the present case. In the matter of *Ajay Malik v/s. State of Uttarakhand (supra)*, the Hon'ble Supreme Court, in the facts of the case relied upon a no objection affidavit submitted by the complainant before the High Court as part of the compounding application against the accused elucidating that the complainant had no grievances against him and that she was neither trafficked nor wrongfully confined by him and that she expresses her willingness to have all pending criminal proceedings against the accused quashed.

17. Insofar as the reliance on the orders of this Court quashing the charge-sheet against Accused Nos.7, 8 and 9, I have perused the orders of this Court. The principal ground on which the charge-sheet against the aforesaid accused was quashed, was that there was no role attributed to any of these accused, either in the complaint or in the accompanying charge-sheet. Much reliance was placed on the order of this Court quashing and setting aside the framing of charge against Accused Nos.2 to 6. The order of this Court dated 15.07.2024 proceeds on the basis that the said Accused were the customers in the said Spa, even going by the case of the prosecution. There is no other role attributed to the said Accused in the charge-sheet. In my opinion, considering the prima facie material against the Petitioner discussed above, the aforesaid judgments would not take the case of the Petitioner any further.

18. The Hon'ble Supreme Court has, in a line of judgments, set out the parameters and contours of the provisions of discharge or the challenge to an order framing charge. In *P. Vijayan v/s State*

of Kerala, (2010) 2 SCC 398, the Hon'ble Supreme Court has observed that at the stage of framing of charge, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused so as to frame a charge against him. If the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge and if not, he will discharge the accused. While applying its judicial mind to the facts of the case, in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the Court to enter into the pros and cons of the matter which is really the function of the Court after trial starts. In the decision of *State of Karnataka v/s. M.R. Hiremath – (2019) 7 SCC 515*, and *State of Tamil Nadu v/s. N. Suresh Rajan – (2014) 11 SCC 709*, the Hon'ble Supreme Court has observed that at the stage of considering an application for discharge, the Court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material taken at face value disclose the existence of the ingredients necessary to constitute the offence. This view was echoed by the Hon'ble Supreme Court in the case of *State of Rajasthan v/s. Ashok Kumar Kashyap (supra)*.

19. The impugned order, in my opinion, is a reasoned one and in consonance with the principles set out by the Hon'ble Supreme Court. The learned Sessions Judge has relied on the complaint, the statement of the decoy customer and the scene of offence panchanama to observe that there is *prima facie* material to

proceed to frame charge against the Petitioner for the offences alleged.

20. In the light of the aforesaid discussion, I find no infirmity in the impugned order. There is *prima facie* material in the complaint and the accompanying charge-sheet to frame the charge against the Petitioner for the offences as alleged in the charge-sheet. Consequently, the challenge to the order framing charge must fail.

21. The Petition stands dismissed. The rule is accordingly discharged.

ASHISH S. CHAVAN, J.