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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-2046-2025 (O&M)
Decided on : 31.07.2025**

MANISH SHARMA

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. G.S.Randhawa, Advocate for
Mr. Paras Jagga, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, Sr. DAG, Punjab.

KIRTI SINGH, J. (Oral)

Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for setting aside/quashing of FIR No.95 dated 12.03.2020, registered under Sections 3, 4, and 5 of the Immoral Traffic (Prevention) Act, 1956, at Police Station Division No.5, District Police Commissionerate, Ludhiana (Annexure P-1), qua the petitioner, along with all consequential proceedings arising therefrom.

2. Learned counsel appearing for the petitioner submits that the allegations against the petitioner that he along with co-accused Tapas Dass was running a prostitution business in the guise of a spa centre are completely false and baseless. It is submitted that post the registration of one FIR under Section 3, 4, 5 of the Immoral Traffic Prevention Act when he was the proprietor of the said spa, the petitioner had decided to leave the business. Subsequently the co-accused Tapas Dass entered into a lease agreement dated 01.05.2019 with the owner of

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the building, which makes it amply clear that it was only him and not the present petitioner who was engaged in the running of the spa centre. It is submitted that the petitioner was neither involved in the running of the spa centre nor was he present at the time when the raid was conducted. It is therefore prayed that the FIR qua the present petitioner be quashed.

3. Per contra, learned State counsel while relying on the contents of the status report dated 29.01.2025 filed on behalf of the respondent-State submits that after completion of the investigation, a final report was presented against the present petitioner and 11 other co-accused. Upon finding the existence of a *prima facie* case against the petitioner, the learned trial Court proceeded to frame charges against him under Sections 3, 4, and 5 of the Immoral Traffic (Prevention) Act, 1956 vide order dated 31.10.2022. It is further submitted that five of the accused confessed to the commission of the crime before the learned trial Court and were thereafter convicted vide judgment dated 08.11.2021. Learned counsel contends that challan having been presented against the petitioner and even the charges having been framed, the petition is not maintainable. A *prima facie* case having been found against the petitioner, the petition warrants a dismissal.

4. Heard.

5. It is settled law that the Courts must not invoke its extraordinary jurisdiction to quash FIRs as a matter of routine. It is only in exceptional circumstances, where not even a *prima facie* case can be established against the accused person, or that continuing of criminal proceedings would amount to gross miscarriage of justice, that an FIR should be quashed. The Hon'ble Supreme Court in *State Vs. M. Maridoss & Anr. 2023(4) SCC 338* held that, "9. Even otherwise, it is



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a settled position of law that while exercising powers under Section 482, CrPC, the High Court is not required to conduct the mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR *prima facie* discloses the commission of the cognizable offence or not.”

6. The scope and ambiguity of powers to be exercised under Section 482, CrPC has been elaborately dealt with and considered by Hon'ble Supreme Court in the case of *M/s Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra & Others*; reported in (2020) 10 SCC 118. In para 57, it is observed and held as under:-

"From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;*
- ii) Courts would not thwart any investigation into the cognizable offences;*
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*
- iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);*
- v) While examining an FIR /complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR /complaint;*
- vi) Criminal proceedings ought not to be scuttled at the initial stage;*
- vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;*
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, 39 recognized to secure the ends of justice or prevent the above of the process by Section 482 Cr.P.C.*
- ix) The functions of the judiciary and the police are complementary, not overlapping;*
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*
- xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*
- xii) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation,*



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if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court ;

xiv) However, at the same time, the court , if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR /complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR ."

7. In the case at hand, the learned trial Court upon finding the existence of *prima facie* case against the petitioner, proceeded to frame charges against him.

All the arguments qua the involvement of the petitioner are a matter of fact, all of which shall be ascertained at the time of the trial.

8. Accordingly, present petition stands dismissed.

9. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

31.07.2025

Kavita

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No