HUSENBASHA RAHAMAN NADAF
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 461 OF 2015

Rani Pratap Singh)
Age 41 years, Occ. Maid)
Residing at Saiguru Nagar,)
Saath Rasta Mumbai)
(At presently lodged at Byculla)
Central Prison)) ...Applicant

Versus

The State Of Maharashtra)
[At instance of D.B. Marg Police)
Station Vide LAC. No.16 of 2011]) ...Respondent

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Mr. Prabhanjay R. Dave a/w Mr. Shankar Ambhure for the Applicant.
Ms. Manisha R. Tidke, APP for the Respondent/State.
Mr. Deepak Hol, Investigation Officer, Dr. D.B. Marg Police Station is present.

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CORAM : M.M. SATHAYE, J.

DATE : 1st OCTOBER, 2026

JUDGMENT:

1. Invoking jurisdiction under Section 397 read with 401 of Criminal Procedure Code, 1973 ('CrPC', for short), Original Accused No. 1 is challenging Judgment and Order dated 05.10.2015 passed in Criminal Appeal No. 150 of 2014 by Additional Sessions Judge, Special Judge, (CBI), Gr-Bombay (C.R. 51). By the said impugned order, the appeal filed by the Revision Applicant was dismissed thereby confirming the conviction as well as sentence passed under Judgment and Order 07.02.2014 passed by Metropolitan Magistrate, Special Court for ITPA, 54th Court at Mazgaon, Mumbai in C.C. No. 1107/PW/2011.

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2. The learned Magistrate has convicted the Revision Applicant for the offences punishable under Sections 3, 4, 5 and 6 of Immoral Traffic (Prevention) Act, 1956 ('PITA', for short). The Revision Applicant is sentenced to suffer rigorous imprisonment ('R.I.', for short) for a period of 2 years for offences under Sections 3 and Section 4 of PITA along with payment of fine of Rs.2,000/- and Rs.1000/- respectively and in default of payment of fine to suffer simple imprisonment ('S.I.', for short) of 1 month for both the offences. The Revision Applicant is also sentenced to suffer R.I. for a period of 3 years for the offences punishable under Sections 5 and 6 of PITA with fine of Rs.2,000/- each and in default to suffer S.I. of one month each in both the offences. Both sentences are directed to run concurrently. This is confirmed by the Appeal Court.

3. The case of prosecution, in short, is as follows. That on 17.02.2011, an NGO - Rescue Foundation gave information to Dr. D.B. Marg Police Station that in Room Nos. 8 and 10 of Krishna Building, first floor, Pavwala Street, Grant Road, Mumbai, some girls are detained for the purpose of prostitution. That said information was passed on to A.C.P. and Sr. Inspector Mr. Ajit Surve, who gave instructions to the police team and representative of said NGO, pancha and a decoy customer. That at 20.40 hrs., the decoy customer gave signal on the mobile phone of Police Inspector Beldar and police raided the spot with panchas. When police went to the first floor and entered Room Nos. 8 and 10, one lady was seen to be present who told her name as Rani Pratap Singh (Revision Applicant) and that she is the Manager and conductor of the brothel. One cupboard and three

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cabins were found. That on Mezzanine floor also, there were 3 cabins. The decoy customer was found with one girl who is victim-PW-1. On search, the police found tissue papers, packets of condoms, which were seized. The cash paid by decoy customer (Rs.500/- note given before raid) was found on the person of Revision Applicant, on search. Another girl was found in another cabin. On inquiry the girls told that they do prostitution there and the earning is shared with the Revision Applicant. Certain telephone/electricity bill/s were found in the name of Original Accused No. 2 - Mr. Nandakishor Modi Yadav. The police then took the Revision Applicant and said girls in custody, went back to police station and complaint was lodged. The police lodged Special LAC No. 16/2011.

4. Investigation was completed. Charge sheet was filed. The Revision Applicant pleaded not guilty. The prosecution examined victim girl as PW-1, complainant (NGO worker) as PW-2, panch witness as PW-3 who had accompanied the decoy customer (PW-4), Investigating Officer ('IO' for short) Mr. Sudam Pandit Beldar is examined as PW-5. The authorization order in favour of IO is produced at Exhibit-28. Medical reports of the victim girls are produced at Exhibit-29 and 30.

5. Learned Magistrate who heard and tried the said case was pleased to convict the Revision Applicant/Accused No. 1. Accused No. 2 was acquitted. The Revision Applicant filed Criminal Appeal No. 150 of 2014, which is dismissed by the impugned order.

6. In these circumstances, the Revision Applicant filed the present

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revision which was admitted on 09.10.2015 and the substantive sentence imposed upon the Revision Applicant was suspended and the Revision Applicant was enlarged on bail with certain conditions.

7. Learned counsel for the Revision Applicant submitted as under.

7.1. That the whole action is initiated at the instance of an NGO and people working with the NGO have been examined as panch witness as well as decoy customer, who are interested witnesses. That NGO wants to promote itself by boasting about number of girls rescued. That no independent witness has been examined to support the case of the prosecution.

7.2. That PW-1 victim is not at all believable because she has changed her versions about age, about being married, about being Bangladeshi national and about having a child from time to time and has given fatal admissions about such change of stands.

7.3. That 'detention' is not proved as required under section 6 of PITA.

7.4. It is strenuously argued that PW-1 victim is an illegal immigrant in the country, not being Indian citizen and being a Bangladeshi citizen. That no action is initiated against PW-1 for deportation. That an illegal immigrant cannot be believed as a witness to convict Revision Applicant who is Indian citizen. That the IO has admitted that no action is taken against PW-1 who is Bangladeshi illegal immigrant.

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7.5. That the IO was not properly authorised and provisions of Sections 13 and 14 of PITA are violated, thereby vitiating entire case of the prosecution, including cognizance and prosecution. That PW-5 - IO has admitted that he is not a Special Police Officer and he has not received the copy of the authorisation. That the authorisation produced at Exhibit-28 is general authorization which is not sufficient compliance with Section 14 of the PITA because there is no written order specifying the person to be arrested and the offence. Therefore, section 14 of PITA is not complied with, thereby vitiating the entire case of the prosecution.

7.6. Relying on Exhibits-13, 21 and 33, he submitted that the place of prostitution is not proved.

7.7. He relied on following judgments in support of his case:

i. Delhi Administration Vs. Ram Singh AIR 1962 SC 63.
ii. Mohd. Hussain Babamiyan Ramzan Vs. State of Maharashtra 1994 CRI. L.J. 1020.
iii. State of Gujarat through C.B.I. Vs. Kumudchandra Pranjivan Shah 1995 CRI. L.J. 3623.
iv. Smt. Jaya Rama Gauda & Ors. Vs. The State of Maharashtra 2013 ALL MR (Cri) 675.
v. Inderjit Singh Gurumal Singh Vs. State of Maharashtra (Cri. Revision Application No.469 of 2013, Order dated 05.12.2013 High Court of Bombay).
vi. C.P. Raju Vs. State of Kerala 2014 CRI. L.J. 2936.

8. On the other hand, learned APP submitted that the learned Magistrate as well as the learned Sessions Judge has concurrently convicted and sentenced the Revision Applicant and no interference is required. She submitted that just because the persons working with

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NGO have supported and participated in the action against illegal activity, they cannot be termed as interested witnesses. She submitted that the witnesses have sufficiently corroborated the case of the prosecution. She further submitted that considering the provisions of Section 6 of PITA, the consent or otherwise of the victim is immaterial and the offence is sufficiently proved.

REASONS AND CONCLUSION

9. I have considered rival submissions and perused the record.

10. First of all, it is important to note that the argument about PW-1 victim being Bangladeshi or illegal immigrant and extended argument that therefore Revision Applicant (Indian citizen) should not be punished, is completely misconceived and is based on a convoluted idea about prosecution. Just because the victim is an illegal immigrant, the offence does not become any lesser. To say that at the instance of a victim like PW-1, Revision Applicant should not be prosecuted or convicted, completely ignores the fact that PW-1 victim is also a human being. This is nothing but victim shaming. Such argument must be rejected at the threshold. When an offence is committed, the effort under criminal law is to prosecute and punish the perpetrator. The effort can never be and should not be to shame the victim. Such argument clearly indicates cognitive bias. Just because a victim is an illegal immigrant (assuming her to be so), the Court cannot consider it as a reason for not convicting the perpetrator. Being illegal immigrant will have its own legal consequences, no doubt. But that will not make the offence any

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lesser.

11. Useful reference in this regard can be made to what is observed by the Hon'ble Supreme Court in **Prajwala Vs. Union of India 2026 SCC OnLine SC 1053** which reads as under.

> "150. Perceptibly, the definition underwent a drastic shift- it changed from being gender-specific and focusing on the promiscuous offering of the body "by the woman" for hire to viewing the trade as inherently exploitative and abusive. The focus or spotlight was shifted from the prostitutes themselves and instead, placed on the persons benefiting from them. One could say that there was a significant pivot from scrutinizing the individual activity to targeting commercial exploitation. A principal reason for this rephrasing was to reiterate that the ITPA was largely brought forth to punish the perpetrators and not the prostitutes.
>
> xxxx"
>
> (emphasis supplied)

12. The law cannot permit an immigration label to become a licence for indignity. Constant judgment can make us lose sight of the person before the Court. The issue therefore is not whether the victim possesses a valid immigration document; the issue is whether the Accused has committed the offence involving a human being. The Court must not allow a human being to disappear behind the labels such as 'illegal immigrant', 'sex worker', or 'rescued woman'. Each label may have its own legal consequence, but none extinguishes dignity of a victim and protection from trafficking. In that view of the

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matter, the said argument has no merit and it is rejected.

13. So far as the argument about alleged lack of independent witnesses is concerned, in cases like these, where raids are conducted on brothels and known-places of prostitution, it is obvious that independent witnesses from the Society will not be available. Persons who are volunteering, such as the witnesses connected with an NGO, as in the present case, will have to be taken aid of. Therefore, evidence of PW-2 (complainant working as IO with NGO) and PW-4 (person working with NGO, who has acted as decoy customer) can not be branded as interested witnesses.

14. Another argument is PW-3 (local street cobbler) is a pliable witness, as he has admitted to have his shop adjacent to police chowky and that he has acted as panch in many D.B.Marg police station cases. I have perused the evidence of this witness. In the teeth of overall material on record, his evidence can not be discarded. Useful reference can be made to Paragraph No. 1973 of **Yakub Abdul Razak Memon Vs. State of Maharashtra (2013) 13 SCC 1** which reads as under.

> "1973. The police when searching for a panch witness, need not go to far off place from the police station as the panchnama is required to be recorded in a close proximity of time, when the accused apprehending his disclosure statement. Therefore, on such material suspicion about the credential of the police or panch witnesses cannot be doubted, unless there is some material to prove the contrary. Had he been picked up from a far off place,

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criticism could have been otherwise as to why the panch witness could not be called from neighbourhood."

15. So far as the argument about the Investigating Officer not being Special Police Officer under Section 14 of PITA and the extended argument that there has not been an order naming person to be arrested is concerned, the said argument is factually incorrect in view of authorization produced on record at Exhibit-28. I have perused Exhibit-28 from the record and proceedings. It shows that under Office Order 14.02.2011 signed by Assistant Commissioner of Police, Girgaon Division, Mumbai and who is Special Police Officer under PITA, has authorised PW-5 who is Inspector of Police at the concerned Police Station specifically to exercise power under section Section 14 proviso (iii) of PITA, which reads as under:

"**14. Offences to be cognizable** - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code:
Provided that, notwithstanding anything contained in that Code,-
(i) xxxx
(ii) xxxx
(iii) any police officer not below the rank of [sub-inspector] specially authorised by the special police officer may, if he has reason to believe that on account of delay involved in obtaining the order of the special police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or concealed, or the person who has committed or is suspected to have committed the offence is likely to escape, or if the name and address of such a person is unknown or there is reason to suspect that a false name or address has been given, arrest the person concerned without such order, but in such a case he shall report, as soon as may be, to the special order, but in such a case he shall report, as soon as may be, to the special police officer the arrest and the circumstances in which the arrest was made."

(emphasis supplied)

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16. Bare reading of the above proviso shows that law has taken sufficient care that if the Special Police Officer has reason to believe that on account of delay involved in obtaining the order of Special Police Officer, any valuable evidence is likely to be destroyed or concealed or person who has committed or is suspected to have committed the offence is likely to escape or if name and address of such person is unknown or there is reason to suspect that a false name or address has been given, then any police officer not below the rank of Sub Inspector can be authorised to arrest. By specifically referring to this proviso (iii), the Special Police Officer i.e. Assistant Commissioner of Police has authorised PW-5 who is an Inspector of Police (above the rank of sub-inspector), thereby complying with the requirement of law. In that view of the matter, PW-5 IO was acting with due authority. Hence, there is no merit in the submission of learned counsel for the Revision Applicant that 'Sections 13 and 14 of PITA are violated and raid, investigation and prosecution, are vitiated.'

17. Next, the argument based on Exhibits-13, 33 and 21 is that since those documents (telephone/electricity bills) show a different building (not Krishna building), therefore place of prostitution is not proved. This argument needs no consideration so far as the Revision Applicant/Accused No. 1 is concerned. Those documents were the basis on which Accused No. 2 Mr. Nandakishor Modi Yadav was arrested. This argument has been considered by the Trial Court. It is held that name of building on the said documents is not Krishna Building and no explanation is given by Accused No. 2 as to how bill

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in his name was recovered by the police from the spot. The doubt created by these circumstances have been noted and the benefit of doubt has been given to Accused No. 2, who is acquitted. Accused No. 2 is not at all concerned with the present Revision application, which is filed only by Accused No. 1 - Revision Applicant. Since Accused No. 2 was acquitted there is no question of its consideration by the Appeal Court.

18. The Revision Applicant was arrested from the spot (Krishna Building) raided and she has been duly identified by PW-2, PW-4 and PW-5 who have identified her and have confirmed that spot was Krishna building. Therefore, the argument based on telephone/electricity bills is of no consequence, so far as the Revision Applicant is concerned. Therefore, the said argument is also rejected.

19. The Magistrate and the Sessions Court has already taken lenient view considering punishment provided under section 6 of PITA.

20. Another argument is that 'detention' is not proved. Since consent is immaterial under section 6 of PITA, this argument need not detain this Court any further, considering overall corroborating evidence of the prosecution witnesses.

21. The judgments of **Delhi Administration Vs. Ram Singh (Supra), Smt. Jaya Rama Gauda & Ors. (Supra) and C.P. Raju (Supra)** are relied upon in support of the argument about due authorisation as Special Police Officer and alleged breach of Sections 13 and 14 of PITA. Considering that there was factually proper authorization in the

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present case (as explained above) the said judgments will not help the Revision Applicant in principle.

22. So far as judgments of **Mohd. Hussain Babamiyan Ramzan (Supra)** and **State of Gujarat through C.B.I. Vs. Kumudchandra Pranjivan Shah (Supra)** are concerned, in view of what is observed about availability of witnesses in such cases where brothels are raided, the alleged untrustworthiness of stock/pliable witnesses cannot be held as fatal. In **Mohd. Hussain Babamiyan Ramzan Vs. State of Maharashtra (Supra),** the offence involved was in respect of business of brown sugar/drug and in **State of Gujarat through C.B.I. Vs. Kumudchandra Pranjivan Shah (Supra)**, the offence involved was under Prevention of Corruption Act, 1947. In **Inderjit Singh Gurumal Singh (Supra),** quarrel with bus driver leading to offence under section 332 of IPC was involved, where the Court held that independent witnesses such as passengers were not examined. The offences involved in these cases were fundamentally different than the offence involved in the present case.

In the present case, brothel is raided involving prostitution and immoral traffic involving human beings. Therefore, the said judgments will not advance the case of the Revision Applicant.

23. Re-appreciation of evidence is not permitted under the revisional jurisdiction of this Court, as clarified in **State Vs. Manimaran (2019) 13 SCC 670,** where the Hon'ble Supreme Court has held as under:

"16. As held in State of Kerala V. Puttumana Illath

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> Jathavedan Namboodiri (1999) 2 SCC 452, ordinarily it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as by the Sessions Court in appeal. When the courts below recorded the concurrent findings of fact, in our view, the High Court was not right in interfering with the concurrent findings of fact arrived at by the courts below and the impugned order cannot be sustained."
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> (emphasis supplied)

24. In the aforesaid facts and circumstances and for reasons indicated above, no perversity or miscarriage of justice is found in the impugned order. There is no reason to interfere.

25. **Criminal Revision Application is dismissed. Rule is discharged.** Bail bond of Revision Applicant and surety, if any, stand canceled. 4 weeks' time is granted to Revision Applicant to surrender.

(M.M. SATHAYE, J.)

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