



2026:KER:73015

CRL.MC NO. 5824 OF 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2026 / 1ST ASWINA,
1948

CRL.MC NO. 5824 OF 2026

CRIME NO.1871/2024 OF ERNAKULAM CENTRAL POLICE STATION,
ERNAKULAM

AGAINST THE ORDER/JUDGMENT DATED 27.02.2026 IN CP NO.20 OF
2025 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, ERNAKULAM

PETITIONERS/A1, A3 TO A7S:

- 1 PRAVEEN SODHARAN, AGED 36 YEARS, S/O SODHARAN, PRAVEEN NIVAS, KANAKAPPALAM KARA, KANAKAPPALAM (P.O), ERUMELY VILLAGE, KOTTAYAM (DT), PIN - 686509
- 2 KEERTHANA SUNIL, AGED 26 YEARS, DAUGHTER OF SUNIL, KOZHIPARAMBIL HOUSE, VELLOOR, MEVELLOOR(P.O) VELLOOR , KOTTAYAM (DT), PIN - 686609
- 3 KRISHNADAS .E.K, AGED 29 YEARS, SON OF KALIDASAN T.P(LATE),ERUVILAMKADU HOUSE, PULLURAMPARA(P.O) , THIRUVAMPADI VILLAGE, KOZHIKODE (DT), PIN - 673603
- 4 ARUN.T.R, AGED 38 YEARS, SON OF T.K.RAGHAVAN,THEKKETHALACKAL HOUSE, MARARIKULAM SOUTH WARD -II POLLETHAL (P.O) KALVOOR-VILLAGE ALAPPUZHA (DT), PIN - 688522
- 5 SHAMEEM, AGED 26 YEARS, SON OF SHERIF (LATE) H NO.39/19, KUMARASWAMI COLONY, 2 ND STREET, THIRIPUR (P.O) TAMIL NADU, PIN - 641604
- 6 AZHAR SADIQ ABDUL SALAM,AGED 43 YEARS, SON OF ABDUL SALAM,DARUL SALAM, ARAMTHANAM, VAMANAPURAM(P.O) THIRUVANANTHAPURAM, PIN - 695606

BY ADVS. SMT.M.MADHUBHEN
SHRI.SUJITH C.D.
SHRI.VIBIN V.



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RESPONDENT/STATE AND CW2 TO CW10:

- 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 SUB- INSPECTER OF POLICE CENTRAL POLICE STATION COCHIN CITY, BANERJI ROAD (P.O) ERNAKULAM, PIN - 682018
- 3 NISHNA .M, AGED 23 YEARS, SPOUSE OF FISAL BABU, NARUKARA HOUSE, PERINTHALMANNA (P.O) MALAPPURAM (DT), PIN - 679322
- 4 DHANYA.P.D, AGED 26 YEARS, DAUGHTER OF DASAN, PEINGADATHU (HOUSE), CHOWARA (P.O), NEDUVANOOR, ERNAKULAM (DT), PIN - 683571
- 5 ANUPRIYA, AGED 26 YEARS, DAUGHTER OF SHAJI, PALOLI (HOUSE), MULLARINGADU (P.O), IDUKKY (DT), PIN - 685607
- 6 SAVITHA, AGED 35 YEARS, DAUGHTER OF SHEKHARAN, KAMANTHARA HOUSE, N.K.SREEDHARAN ROAD, VADUTHALA (P.O) ERNAKULAM (DT), PIN - 682023
- 7 SARANGY, AGED 31 YEARS, SPOUSE OF KANNAN, SANTHAMANGALAM (HOUSE), CHANDANATHOPPU (P.O), KOLLAM (DT), PIN - 691014
- 8 CHINNU, AGED 37 YEARS, SPOUSE OF KANNAN, CHINNU VILASAM , KARIKKODU, CHANDANATHOPPU (P.O) KOLLAM (DT), PIN - 691014
- 9 RAJANI JOSE, AGED 29 YEARS, DAUGHTER OF (LATE) JOSE, PURAKKATTIL (HOUSE), SANTHIPURAM, NJEEZHOOOR (P.O), KOTTAYAM (DT), PIN - 686601
- 10 SEENA, AGED 42 YEARS, DAUGHTER OF SOMAN, MENKINKARAHOUSE, POWATHOOR, PALODU (P.O) THIRUVANANTHAPURAM (DT), PIN - 695562

R1 & R2 BY SMT.MEGHA K.XAVIER, SENIOR PUBLIC PROSECUTOR
R3 TO R10 BY ADV SHRI.KRISHNASANKAR D.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR HEARING ON
16.09.2026, THE COURT ON 23.09.2026 PASSED THE FOLLOWING:



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ORDER

This petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”) by accused Nos. 1 and 3 to 7 in C.P. No.20/2025 on the file of the Judicial First Class Magistrate Court-II, Ernakulam. They have been charge-sheeted for offences punishable under Section 143 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS”) and Sections 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act, 1956 (for short, “ITP Act”). The petitioners seek an order quashing the Final Report and all further proceedings in the said case.

2. The prosecution case, in brief, is that accused Nos. 1 to 3, with the intention of exploiting women, recruited and harboured them in an Ayurvedic spa centre named “Moksha”, which was functioning on the first and second floors of a multi-storied building named “Vebal House” situated in Kochi City for sexual activities. It is further alleged that accused Nos. 4 to 7, with the intention of earning money, rendered assistance to the said activities by recommending women to the establishment, and on 24.12.2024, accused Nos. 4 to 7 were found engaged in sexual intercourse with CWs 2 to 5, respectively, by the police party, which conducted a raid at the said spa centre on the basis of a tip-off



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received by them. Thus, the accused are alleged to have committed the aforesaid offences.

3. Heard Smt. M. Madhubhen, the learned counsel for the petitioners, Sri. Krishnasankar D, the learned counsel appearing for respondent Nos. 3 to 10, and Smt. Megha K. Xavier, the learned Senior Public Prosecutor.

4. The learned counsel for the petitioners submitted that, even if the allegations contained in the First Information Statement as well as the Final Report are accepted in their entirety, none of the offences alleged against the petitioners would be attracted. The learned counsel further contended that the prosecution has failed to collect any material during the course of the investigation to establish that CWs 2 to 9, the women who were allegedly subjected to sexual exploitation, were recruited, transported, harboured or transferred by using threats, force, abduction, fraud or abuse of power, or there is no material to show that the accused had induced any person having control over CWs 2 to 9 by offering any payment or other benefit. According to the learned counsel, in the absence of any such materials, the offence of human trafficking cannot be attracted. The learned counsel further submitted that, apart from the bare allegation that accused Nos. 4 to 7 had rendered assistance in the conduct of the spa centre, which was allegedly being used as a brothel, there is absolutely no material to establish that they had rendered any such assistance.



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The learned counsel further submitted that the statements of CWs 2 to 8, the women who were allegedly subjected to sexual exploitation, recorded by the jurisdictional Magistrate under Section 164 of the Code of Criminal Procedure, do not support the prosecution case. According to the learned counsel, CWs 2 to 5 categorically stated that they had not engaged in sex work, while CWs 6 to 8 stated that they had no knowledge of any sex work being carried on at the said premises. The learned counsel also invited the attention of this Court to the affidavits filed by CWs 2 to 8, wherein they stated that none of them had been sexually exploited by any of the petitioners and that the statements given by them under Section 164 of the CrPC before the jurisdictional Magistrate were made voluntarily. It was further pointed out that they were working in the spa centre in various capacities, including as therapists and telecallers, and that they had been appointed on the basis of their own applications. The learned counsel further contended that the procedure relating to the search was not scrupulously followed, as the Inspector of Police who conducted the search had failed to secure the presence of a woman as an independent witness. Yet another contention raised is that the first accused was not present at the spa centre at the relevant time and that the CCTV footage would establish that he had been taken into custody from Erumeli. Highlighting the aforesaid circumstances, the learned counsel submitted that this is a fit case for quashing the proceedings,



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particularly since the women who were allegedly trafficked and sexually exploited had filed affidavits and had also given statements before the learned Magistrate denying the prosecution allegations. According to the learned counsel, in view of the stand taken by the women who were allegedly subjected to exploitation, there is no possibility of a successful prosecution and the continuation of the proceedings would only result in a wastage of valuable judicial time.

5. Per contra, the learned Senior Public Prosecutor submitted that sufficient materials have been collected during the investigation, including the statements of independent as well as official witnesses, to establish the prosecution case. According to the learned Senior Public Prosecutor, sufficient oral and documentary evidence has already been collected to prima facie establish the involvement of accused Nos. 1 to 3 in running the establishment. The learned Senior Public Prosecutor further contended that the subsequent statements given by the women who were allegedly engaged in sexual activities before the learned Magistrate, or the affidavits filed by them along with the present petition disowning the prosecution case, cannot constitute a ground for terminating the prosecution at the threshold. According to the learned Senior Public Prosecutor, the statements of official as well as independent witnesses are available to establish the prosecution case. Therefore, even if the women



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who were allegedly involved in the sexual activities were to turn hostile during the trial, the same would not, by itself, render the prosecution case unsustainable. The learned Senior Public Prosecutor submitted that this is not a fit case for invoking the extraordinary jurisdiction of this Court to terminate the criminal proceedings at this stage.

6. Before considering the rival contentions, it is necessary to bear in mind that this Court has inherent jurisdiction under Section 482 of the Code of Criminal Procedure, which corresponds to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash criminal proceedings in appropriate cases. However, such jurisdiction is extraordinary in nature and is required to be exercised sparingly and with circumspection, particularly where such intervention is necessary either to prevent abuse of the process of law or to secure the ends of justice.

7. One of the well-recognised grounds for quashing criminal proceedings is that, even if the allegations contained in the complaint or the First Information Statement are taken at their face value and accepted in their entirety, they do not disclose the commission of any offence or do not make out a case against the accused. At the same time, while exercising jurisdiction under Section 528 of the BNSS, this Court is not expected to undertake a meticulous examination of the evidence, appreciate the probative value of the materials collected during



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the investigation, or conduct a mini-trial.

8. The scope of enquiry in a petition for quashing is, therefore, limited to examining whether the allegations, on a plain reading, together with the materials available on record, disclose the essential ingredients of the alleged offences. If the allegations raise disputed questions of fact requiring appreciation of evidence, such questions are matters to be adjudicated by the trial court after a full-fledged trial.

9. Keeping the above principles in mind, when the facts of the present case are examined, it can be seen that the prosecution alleges that accused Nos. 1 to 3 were conducting a brothel in a building under the guise of a spa centre. According to the prosecution, it was on the basis of prior information received that the Inspector of Police, along with the police party accompanied by other independent witnesses, had conducted a search in the said spa centre and during the search, accused Nos. 4 to 7 were allegedly found engaged in sexual intercourse with certain women.

10. Although the learned counsel for the petitioners contended that accused No.1 had no connection whatsoever with the establishment where prostitution was allegedly being carried on, the materials collected during the course of the investigation prima facie indicate otherwise. There is documentary as well as oral evidence to indicate that the building was taken on lease by



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accused Nos. 1 and 2. Likewise, the statement of CW12, the therapist, recorded during the investigation under Section 161 of the Cr. P.C., reveals that the spa centre was being operated using his licence, which he had handed over to accused Nos. 1 and 2. This Court is conscious of the fact that whether the aforesaid materials would ultimately establish the guilt of the accused is a matter to be decided by the trial court on the basis of the evidence adduced.

11. One of the contentions taken by the learned counsel for the petitioners is that the prosecution allegation that the first accused was arrested from Ernakulam is absolutely false. According to the counsel, at the time of the alleged raid, accused No.1 was not present at the scene, and he was actually at Erumeli, and there is CCTV footage to substantiate the same. However, the contention of the first accused that he was elsewhere when the raid was conducted, and the co-accused were arrested, cannot be adjudicated at this stage. The veracity and reliability of the defence version cannot be determined in proceedings of the present nature. Such matters are required to be considered by the trial court on the basis of the evidence adduced during trial. These are disputed questions of fact which cannot be conclusively determined while exercising the inherent jurisdiction of this Court.

12. At the same time, this Court is not oblivious of the fact that, during the course of the investigation, CWs 2 to 8 had given statements before the



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Magistrate under Section 164 of the CrPC, stating that they had not engaged in sexual activities as alleged by the prosecution and that they were working as therapists and other staff members in the said establishment. Moreover, the women who were allegedly subjected to sexual exploitation have filed affidavits along with the present petition, disowning the prosecution case. In the said affidavits, they have stated that they had not engaged in any sexual activity as alleged and that they had no objection to the proceedings being quashed.

13. However, merely because the witnesses who were allegedly subjected to sexual exploitation have subsequently recanted from the prosecution version, it cannot, at this stage, be concluded that there is no possibility of a conviction or that the continuation of the proceedings would amount to an abuse of the process of law. The offences alleged in the present case are also not in the nature of private disputes. The allegations relate to activities sought to be regulated and prohibited under a special enactment enacted in the public interest. Consequently, the mere fact that the women who were allegedly subjected to sexual exploitation do not presently have any grievance against the accused cannot, by itself, constitute sufficient justification for quashing the proceedings.

14. Moreover, this is not a case where the prosecution proposes to prove its case solely on the basis of the testimony of the women who were allegedly



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subjected to sexual activities. On the contrary, a perusal of the records and other materials collected during the investigation indicates that statements of independent witnesses are also available in support of the prosecution case. Likewise, the evidence of the Inspector of the Central Police Station, Ernakulam, who conducted the raid, as well as that of the other official witnesses and independent witnesses who accompanied him, would also be available for consideration at the time of trial. The said fact assumes importance particularly since it is well settled that the evidence of official witnesses can be acted upon if the same is convincing and reliable and is capable of inspiring the confidence of the Court. Therefore, the contention of the learned counsel for the petitioners that, in the absence of the evidence of the women allegedly involved in the sexual activities, there is nothing left to establish the prosecution case, cannot be accepted at this stage.

15. While considering the contention taken by the learned counsel for the petitioner regarding the non-compliance of the procedural requirement governing search, it is to be noted that the non-compliance with the procedural requirement, if any occurred, alone is not a reason to exercise this Court's inherent jurisdiction. Whether there was non-compliance with the statutory procedure and, if so, the legal consequences of the same are matters which can be appropriately considered by the trial court on the basis of evidence. Every



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irregularity in investigation or search does not automatically render the prosecution non est.

16. Upon consideration of the materials available on record and the circumstances brought out during the investigation, this Court is of the view that accused Nos. 4 to 7 were, prima facie, only customers who allegedly engaged in sexual activities with the women at the said establishment. There are no sufficient materials to indicate that they had any role in the conduct or management of the alleged spa centre, which was allegedly being used as a brothel, or that they had made any attempt to recruit or harbour the women in the said establishment. In the absence of such materials, this Court is of the view that accused Nos. 4 to 7 cannot be prosecuted for the offence punishable under Section 143 read with Section 3(5) of the BNS. Likewise, there are no sufficient materials to sustain the prosecution against accused Nos. 4 to 7 for the offences punishable under Sections 4 and 6 of the ITP Act.

17. However, insofar as the allegation against accused Nos. 4 to 7 of being customers is concerned, the position requires separate consideration. Prima facie, their alleged conduct attracts the offence punishable under Sections 5 and 7 of the ITP Act. Recently, a Division Bench of this Court, in **Noushad v. State of Kerala** (2026 (5) KHC 537), while answering a reference, held that a



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customer who avails the services of a sex worker in a brothel is liable to be prosecuted under Section 5 of the ITP Act. The Division Bench observed that “a customer who voluntarily enters a brothel and avails the services of a sex worker for consideration becomes an active participant in the commercial transaction. The commercial exploitation sought to be prohibited by the Act is thus sustained not merely by the brothel keeper but also by those who voluntarily patronise such activity. In such circumstances, there is no justification for excluding one of the participants in the prohibited activity from the operation of the penal provision, if the conduct alleged against such person falls within the ambit of the statutory provision.”

18. In the light of the aforesaid discussion, this Court is of the view that accused Nos. 4 to 7 are liable to be proceeded against for the offence punishable under Sections 5 and 7 of the ITP Act. However, insofar as accused Nos. 1 and 3 are concerned, the materials collected during the investigation disclose sufficient grounds to proceed with the offences alleged against them. The questions regarding the applicability of the offence of trafficking and the sufficiency of the materials in that regard are matters which can appropriately be considered and decided by the trial court on the basis of the evidence that would be adduced before it. At this stage, it cannot be said that the allegations and materials collected during the investigation are so inherently absurd or wholly



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deficient as to warrant the exercise of the extraordinary jurisdiction of this Court in favour of accused Nos. 1 and 3. Upon an overall consideration of the allegations contained in the Final Report and the materials collected during the investigation, this Court is of the view that the case involves several disputed questions of fact which require adjudication on the basis of the evidence.

In the result, this petition is allowed in part with the following directions:

(i) Accused Nos. 1 and 3 shall continue to face prosecution for the offences charged against them.

(ii) The proceedings against accused Nos. 4 to 7 for the offences punishable under Section 143 read with Section 3(5) of the BNS and Sections 4 and 6 of the Immoral Traffic (Prevention) Act, 1956, are hereby quashed.

(iii) Accused Nos. 4 to 7 shall be proceeded against for the offence punishable under Sections 5 and 7 of the Immoral Traffic (Prevention) Act, 1956.

Sd/-

JOBIN SEBASTIAN
JUDGE

vdv



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APPENDIX OF CRL.MC NO. 5824 OF 2026

PETITIONERS' ANNEXURES:

Annexure 1	CERTIFIED COPY OF CHARGE SHEET,161 STATEMENTS OF 8 VICTIMS,164 STATEMENTS OF 7 VICTIMS AND ALL OTHER DOCUMENTS RELATED TO THE INVESTIGATION ON CR 1871/24 RECEIVED AS FREE COPY BY THE ACCUSED FROM THE JUDICIAL FIRST CLASS MAGISTRATE COURT ON 23/10/2025
Annexure 2	TRUE COPY OF AFFIDAVIT OF R3 DTD 6/7/26
Annexure 2(a)	TRUE COPY OF AFFIDAVIT OF R4 DTD 6/7/26
Annexure 2(b)	TRUE COPY OF AFFIDAVIT OF R5 DTD 6/7/26
Annexure 2(c)	TRUE COPY OF AFFIDAVIT OF R6 DTD 6/7/26
Annexure 2(d)	TRUE COPY OF AFFIDAVIT OF R7 DTD 6/7/26
Annexure 2(e)	TRUE COPY OF AFFIDAVIT OF R8
Annexure 2(f)	TRUE COPY OF AFFIDAVIT OF R9 DTD 6/7/26
Annexure A3	COPY OF FIR IN CRIME NO.1871/2024 OF CENTRAL POLICE STATION OF COCHIN CITY DATED 24/12/2024