

*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

Date : 05.07.2024

PRESENT

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD) No.9399 of 2024
and
WP(MD)No.13963 of 2024

Raja Murrugan ... Petitioner in both petitions
Vs

- 1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 2.The Law Department Secretariat,
Chennai.
- 3.The Directorate of Vigilance and Anti Corruption,
No.293, MKN Road,
Alandur, Chennai – 600 016.

... Respondents in WP(MD)No.13963 of 2024

- 1.The State represented through
The Inspector of Police,
Nesamani Nagar Police Station,
Nagercoil, Kanyakumari District
Crime No.15 of 2024.



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

2.A.R.Kennady
WEB COPY

... Respondents in
CrIOP(MD)No.9399 of 2024

For Petitioner : Mr.K.H.Raja Murrugan

Party-in-person
For Respondents : Mr.E.Antony Sahaya Prabahar
Addl.Public Prosecutor
[for respondents, except R2 in CrIOP]

Prayer in CrIOP(MD)No.9399 of 2024 : Petition filed under Section 482 Criminal Procedure Code to call for records pertaining to the case in crime No.15 of 2024 dated 17.02.2024 on the file Nesamani Nagar Police Station, Kanyakumari District and quash the same insofar as the petitioner in concerned.

Prayer in WP(MD)No.13963 of 2024: Petition filed under Article 226 of Constitution of India for a writ of mandamus 1) directing the 1st respondent not to disturb the trust and its functions to function 24 hours in Nagercoil for providing the services of volunteer sex between adult and with consent of male to male, male to female and LGBTQ to any, female to female, counselling, oil bath for 18 plus for both male and female, consensual sexual activity for both men and women either through sex workers or members



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

volunteering on their own, meeting and get together for its members, Matrimony/living together services and pre-marital sex and open new branches anywhere in Tamil Nadu and India and function and also not to file any false cases on trustee or demand the trust to pay money to function normally & (2) to direct the 1st respondent to give compensation of Rs.5 Lakh to the petitioner for the loss happened for the last 5 months in not able to run the trust and provide its service to its members and public people got frustrated mentally and physically and the trust is in debt of Rs.2 lakh as rent is not paid and maintenance of the building was not done for the past 5 months.

COMMON ORDER

The writ petition is filed seeking a writ of mandamus 1) directing the 1st respondent not to disturb the trust and its functions to function 24 hours in Nagercoil for providing the services of volunteer sex between adult and with consent of male to male, male to female and LGBTQ to any, female to female, counselling, oil bath for 18 plus for both male and female, consensual sexual activity for both men and women either through sex workers or members



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

volunteering on their own, meeting and get together for its members, Matrimony/living together services and pre-marital sex and to open new branches anywhere in Tamil Nadu and India (2) sought for a direction as against the police not to file any false cases (3) to direct the 1st respondent to give compensation of Rs.5 Lakh to the petitioner for the loss happened for the last 5 months in not able to run the trust and provide its service to its members.

2.The criminal original petition in CrIOP(MD)No.9399 of 2024 is filed to quash the FIR in Crime No.15 of 2024 on the file of the respondent Police.

3.Since the petitioner in both cases are one and the same, both these petitions are taken up together and disposed of by this common order.

4.The case of the petitioner is that he is the founder of the trust namely Friends For Ever Trust, it is duly registered and its

4/19

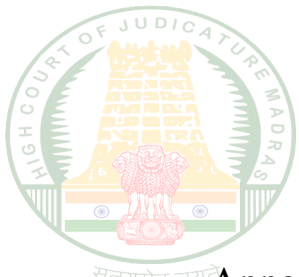


*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

registration number is Reg.No.147 of 2022 having office at Nagercoil. The main object of the trust is to promote adult recreation and other related activities. They are providing oil bath and sex related services to its members and its customers. The Inspector of Police, Nesamani Nagar Police Station, Nagercoil has conducted a search in the petitioner's trust premises on 17.02.2024, arrested the petitioner and registered the case in Crime No.15 of 2024 for the offence under Sections 3(2)(a), 4(2)(a),5(1)(a) and Sections 7(1)(a) of the Immoral Traffic (Prevention) Act, 366 (A) and 342 IPC, Sections 5(1), 11(6), 12, 13(b), 14(1), 6, 7, 8 of Protection of Children From Sexual Offences Act, 2012.

5.The petitioner was arrested and remanded into judicial custody on 17.02.2024 and was released on bail on 24.04.2024. The concern of this petitioner is that the act of the respondent police is against the ratio laid down by the Hon'ble Supreme Court in ***Budhadev Karmaskar Vs The State of West Bengal*** [in Criminal

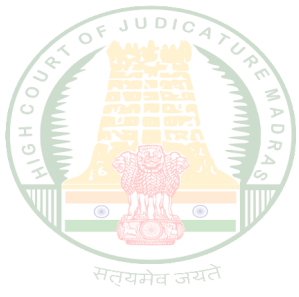


*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

Appeal No.135 of 2010]. Therefore, the petitioner has filed this criminal original petition to quash the FIR in Crime No.15 of 2024 on the file of the respondent Police.

6.The petitioner claims that he is a practising advocate in the Madurai Bench of Madras High Court. He went to Nagercoil for weekend on 16.02.2024. His ex-wife and her parents with the help of an advocate and police have arranged a 17 years old girl to visit the trust on 17.02.2024. This girl came to his trust on 17.02.2024 at about 10.00am and within 20 minutes of her visit, the police entered into the trust, beaten the petitioner and others, seized their mobile phones, took photographs, also projected them as sex workers, abused and also registered a case. This criminal case according to him is a foisted one by sending a girl into the trust at the instance of his ex-wife. Therefore, this criminal case is liable to be quashed.



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

7.This writ petition is filed based on the judgment of the Hon'ble Supreme Court in ***Budhadev Karmaskar Vs The State of West Bengal*** [in Criminal Appeal No.135 of 2010] that consensual sex is a permitted one and they have to be treated with dignity, however, the police have treated them badly, assaulted them, taken photographs and also abused them. Therefore, necessary action has to be taken as against the concerned police officers and compensation has to be awarded to him.

8.The petitioner claiming to be a law graduate / advocate appeared as party- in person and has referred to paragraph No.11 of the judgment of the Hon'ble Supreme Court cited supra. He fairly states that his trust is providing services of oil bath and consensual sex between men and women through sex workers and to its members. A list of services offered in the trust is stated in the affidavit filed by the petitioner and the same is extracted hereunder:



WEB COPY



WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024

“1.Counselling.

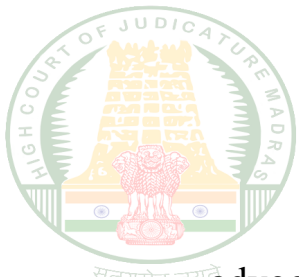
2.Oil bath for 18 plus for both male and female, will include sexual intercourse based on their interest and safety condoms.

3.consensual sexual activity for both men and women either through sex workers or members volunteering on their own.

4.Meeting and get together for its members.

5.Matrimony / living together services by consensual arrangements and premarital sex. We wanted to provide safe place for all the members entering the trust premises and we co-operate with the local police in following the guidelines if any given.”

9.This Court is shocked that an advocate in robes claiming that he is running a brothel centre and filed this writ petition seeking some protection for running this brothel centre. Therefore, this Court has directed the petitioner to produce his enrollment certificate and law degree certificates in order to ascertain, whether he is actually an

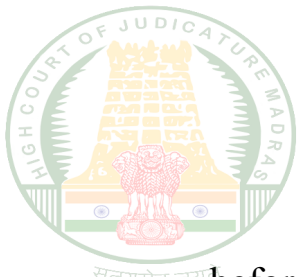


*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

advocate, studied law degree and has enrolled in any Bar Association and has passed over the cases. However in the afternoon when the matter has been called again, there was no representation for the petitioner on 03.07.2024 and therefore, these cases were listed for hearing under the caption for orders today. The petitioner party-in person is present before this Court today, but did not produce his degree certificates.

10. On the complaint of the local councillor to the Police, the Police after getting permission from the Magistrate conducted a search and found three women indulging in sexual activities in the petitioner's trust. One of the girls was a minor. The police recovered pamphlets, visiting cards, used and unused condoms. The police arrested this petitioner and others and also produced the minor victim girl before the learned Additional Mahila Court, Nagercoil, where her statement was recorded under Section 164 CrPC on 04.03.2024. The statement under Section 164 CrPC is also placed



WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024

WEB COPY

before this Court. As per 164 CrPC statement of one of the victims,

she is a minor, studied upto 10th standard and was in search of job.

The petitioner has offered a job and abused her sexually and also

made her to indulge in sex trade. As per the statement of the victim,

it is the petitioner, who offered the job of doing oil massage as

Rs.500/- per oil massage and also sexually abused her. In the

criminal original petition filed on 12.06.2024 the petitioner has

taken a stand that this minor girl has ben sent inside his trust at the

instance of his ex-wife. In the writ petition filed on 13.06.2024 the

petitioner took a different stand and has also enclosed the

partnership application of the minor and attempted to project that

she is aged above 18 years. The application was obtained from the

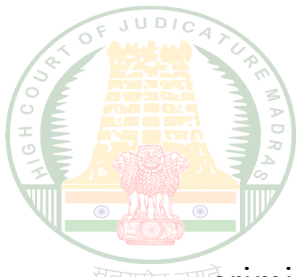
said minor. The application is headed as "*Oil Bath application form*

and friends for ever trust membership application form".

An undertaking has also been obtained from the applicant that she is

agreeing and volunteering to adult activities including sex and

others. The stand taken by petitioner in the writ petition and in the

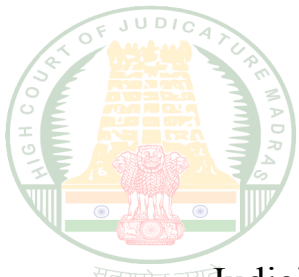


*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

criminal original petition are contrary to each other.

WEB COPY

11. The learned Additional Public Prosecutor appearing for the respondent submits that this petitioner has studied B.Tech in Kalasalingam college, Virudhunagar during the year 2009-2013. However they are not in a position to ascertain whether this petitioner has obtained any law degree. The learned Additional Public Prosecutor submits that the petitioner is having an Bar Council identity card and his enrollment no is 2900/2022. He further submits that statement under Section 164 CrPC of the the victim girl has been recorded and it reveals the offence committed by the petitioner and the respondent police after completing the investigation has filed the final report as against the petitioner for the offence under Sections 3(2)(a), 4(2)(a), 5(1)(a) and Sections 7(1)(a) of the Immoral Traffic (Prevention) Act, 366 (A) and 342 IPC, Sections 5(1), 11(6), 12, 13(b), 14(1), 6, 7, 8 of Protection of Children From Sexual Offences Act, 2012 before the



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

Judicial Magistrate, Additional Mahila Court, Nagercoil.

WEB COPY

12.This Court considered the rival submissions and perused the materials placed on record.

13.The purpose of law in society is to preserve the moral sanctity that regulates a society. Therefore, the legal profession is regarded as a noble profession as it is the upholder and protector of law. It is a service-oriented profession which aims to serve society. Lawyers are considered to be social engineers, who bring about social change and development. The law is essential to maintaining a just and equitable society, and lawyers play a critical role in upholding the law and ensuring that individuals and organizations are held accountable for their actions. Lawyers also provide a valuable service to their clients, helping them navigate complex legal systems and protecting their rights and interests. In addition, the legal profession has a long history of public service and advocacy.



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

14.The Advocate Profession is still believed to be a noble profession. The petitioner claiming to be an Advocate started a trust with a sole object to provide sex and sex related services to its members and its customers and also proudly claims that he is providing oil bath and sex related services to its members and customers. The petitioner claims immunity in the strength of the decision of the Hon'ble Supreme Court in *Budhadev Karmaskar Vs The State of West Bengal* [in Criminal Appeal No.135 of 2010].

15.The petitioner has not understood the context in which the above judgment has been rendered. The Hon'ble Supreme Court has taken the issue for the purpose of prevention of trafficking and rehabilitation of sex workers, who wish to leave sex work and the conditions conducive for sex workers, who wish to continue sex working as sex workers with dignity.



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

16. In this case a poor minor girl has been exploited by the petitioner taking advantage of her position by offering Rs.500/- for doing oil massage. The child has been exploited by taking advantage of her poverty. The petitioner appears to be doing this business with the shield of an identity card, which is said to have been issued by the Bar Council of Tamil Nadu and Pudhucherry.

17. Every State is having different view with regard to running of brothel. The Tamil Nadu government in order to prevent the exploitation of women and trafficking of women, has enacted an Act, viz., the Immoral Trafficking (Prevention) Act, 1956. This Act has been enacted with an aim to prevent the commercialisation of vices and the trafficking of females. This Act does not declare sex work as illegal. However it prohibits running of brothel centres. No doubt adults can have sex, but soliciting people and luring them into sexual activities are illegal. The Hon'ble Supreme Court in the above cited judgment has stated that voluntary sex work is not



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

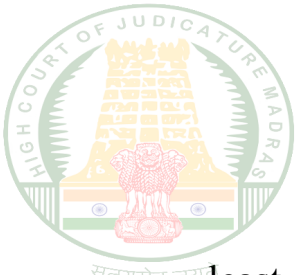
illegal, but running brothel is unlawful.

WEB COPY

18.The petitioner has openly made an advertisement that his trust is providing services of oil bath for both male and female including sexual intercourse, based on their interest and safety condoms, consensual sex activity for both men and women either through sex workers or members volunteering on their own and pre-marital sex.

19.What is very unfortunate in this case is that the person who is doing all these businesses claims to be an Advocate. Kanyakumari District is known for its 100% literacy in the district. From this district and that too in the name of advocate such activities are done. A few days back in another case it was reported that an advocate has been arrested for dacoity.

20.It is high time the Bar Council has to realise that the reputation of the Advocates in the society is getting decreased. At



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

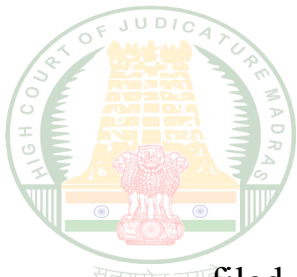
least hereafter the Bar Council shall ensure that members are enrolled only from reputed institutions and restrict the enrollment from unreputed institutions from Andhrapradesh, Karnataka and other States.

21. Since the petitioner claims to be an advocate enrolled with the Bar Council of Tamil Nadu and Pudhucherry,

(i) the Bar Council shall ascertain the genuineness of the petitioner's enrollment and educational certificates and proceed further based on the genuineness, in accordance with law ;

(ii) the respondent police shall also find out the genuineness of the petitioner's educational certificates and to report the same to the Bar Council of Tamil Nadu;

22. Though this criminal original petition has been filed to quash the First Information Report in Crime No.15 of 2024, the respondent Police claim that after investigation they have also



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

filed the final report. Therefore, this criminal original petition in CrIOP(MD)No.9399 of 2024 is liable to be dismissed. However, the petitioner is at liberty to challenge the final report in the manner known to law or he can establish his case before the trial Court. Since the final report has been filed, the trial court shall take it on file and conclude the trial within a period of five months from the date of receipt of a copy of this order.

23.Considering the nature of relief sought for in the writ petition and also considering the nature of offence in Crime No.15 of 2024 on the file of the respondent Police, this Court is not inclined to grant any such mandamus as sought for by the petitioner. Therefore, the writ petition in WP(MD)No.13963 of 2024 is also liable to be dismissed.

24.In the result, considering the nature of relief sought for, both these writ petition and criminal original petition are dismissed



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

WEB COPY

with cost of Rs.10,000/-[Rupees Ten Thousand] each, which shall be paid by the petitioner to credit of the the District Social Welfare Officer, Kanyakumari District within period of four weeks from the date of receipt of a copy of this order.

05.07.2024

Index: Yes / No
NCC: Yes/ No.

To

- 1.The Superintendent of Police,
Nagercoil, Kanyakumari District.
- 2.The Law Department Secretariat,
Chennai.
- 3.The Directorate of Vigilance and Anti Corruption,
No.293, MKN Road,
Alandur, Chennai – 600 016.
4. The Inspector of Police,
Nesamani Nagar Police Station,
Nagercoil, Kanyakumari District
Crime No.15 of 2024.
5. The District Social Welfare Officer,
Kanyakumari District.



WEB COPY



*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

B.PUGALENDHI,J

DSK

*WP(MD)No.13963 of 2024 and
CRL OP(MD)No.9399 of 2024*

Date : 05.07.2024