

IN THE COURT OF AAKRITI VERMA, JUDICIAL
MAGISTRATE, FIRST CLASS, PALWAL UID-HR00498

HRPL030016522017



Presented on : 05-04-2017
Registered on : 05-04-2017
Decided on : 18-07-2026
Duration : 9 years, 3 months, 13 days

State	Versus	1. Ram Kumar, Son of Latoor, Resident of Baas Mohalla, P.S Hathin, Palwal. 2. Chaman, Son of Rajpal, Resident of Prithala, P.S. Sadar, Palwal. 3. Gyanchand, Son of Girraj, Resident of Ghodi, P.S. Chandhut, Palwal. 4. Bharat, Son of Om Prakash, Resident of H. No. 942, Sanjay Inclave Nangla road, Faridabad. 5. Sunder, Son of Inderraj, Resident of Gulawad, P.S. Hasanpur, Palwal. 6. Deep Chand, Son of Kishan, Resident of Rundi, P.S. Sadar, Palwal. 7. Kavita, Daughter of Ravinder, Resident of Aadarsh nagar, near Jajjoram School, P.S. City, Ballbahgarh. 8. Manju @ Kavita, Daughter of Kishan @ Rajesh, Resident of Bamni Khera, Hall gali no. 2 Kalash Nagar, P.S. Camp Palwal.
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9. Reena, Daughter of Sandeep,
Resident of House No. 628,
Habuwa colony, P.S. Saran,
Faridabad.
 10. Geeta, Daughter of Pawan,
Resident of Ghodi, P.S. Chandhut,
Palwal.
 11. Mahender, Son of Bawanilal,
Resident of Badhola, P.S. Sadar,
Palwal.
 12. Ishwar Singh Punia, Son of
Dhaniram, Resident of Rakhota,
P.S. Sadar, Palwal.

FIR No.:- 81 dated 16.02.2017

U/Ss:- 120B of IPC and 3, 4, 5, 6, 7 of I.T.P Act.

Police Station:- City, Palwal.

Present: Sh. Naresh Kaushik, Ld. APP for State.
Accused **Prince @ Pushpender** on bail represented by Sh. P. K. Shorya, Advocate.
Accused **Ram Kumar** on bail with Sh. Rakesh Sharma, Advocate.
Accused **Gyan Chand** on bail with Sh. Subhash Sharma, Advocate.
Accused **Reena** on bail with Sh. Akash Chauhan, Advocate.
Accused **Sunder Singh** on bail represented by Sh. Rajesh Bhardwaj, Advocate.
Accused **Manju** on bail with Sh. Nasir Khan, Advocate.
Accused **Geeta and Mahender** on bail with Sh. Parveen Gupta, Advocate.
Accused **Kavita** on bail with Sh. Azad Singh Poswal, Advocate.
Accused **Bharat** on bail with Sh. Deepender Poswal, Advocate.
Accused **Ishwar** on bail with Sh. Rajender Garg, Advocate.
Accused **Chaman** on bail with represented by Sh. Mahesh Chand Sharma, Advocate.
Accused Deep Chand (Proceedings dropped vod 29.08.2024)

JUDGMENT:

The above named accused persons have been sent up by the police of police station City, Palwal to face the trial for the offences punishable under Sections 120B of IPC and 3, 4, 5, 6, 7 of I.T.P Act of Immoral Traffic Act in case FIR mentioned above.

2. Brief facts of prosecution case are that on 16.02.2017, Insp. Sh. Suman Kumar alongwith HC Mahender Singh, Ct. Sunder and Ct. driver Bachhan Singh were on crime patrolling duty near bus stand, PS City Palwal, when they met ASI Tek Singh, HC Rajkumar and HC Pradeep, when the secret informant gave the information regarding prostitution taking place in Krishna Guest House situated in Dev Nagar Colony, which is being run by owner Mahender and manager Punia and if, raid is conducted then the accused persons could be caught red handed in the act. Believing the information to be true, they joined LASI Manju, Ct. Punam, Ct. Sunita. HC Mahender was deputed as a decoy customer and was given Rs.500/- note having currency no. 2AR-760208 and was given the instruction that as soon as the deal would be finalized, he would swipe his hair with his hand. The remaining police team hid in the background. When they received the indication from HC Mahender, they entered the Guest House and conducted raid. They found the following persons in different rooms:-

* **Room No.1:** Chaman, Son of Rajpal with Savita, Wife of Pawan

- * **Room No.2:** Pushpender, Son of Dharmender with Manju, Wife of Rajesh
- * **Room No.3:** Ram Kumar, Son of Latur with Kavita, Wife of Ravinder
- * **Room No.4:** Bharat, Son of Om Prakash with Reena, wife of Sandeep

All these persons were found in objectionable positions with each other. Furthermore, Gyan Chand, Son of Girraj Singh and Sunder, Son of Inderraj were waiting at the reception for their turns. They recovered two notes of Rs.500/- each from Manju, out of which one note was signed which was taken into police possession. With these allegations, action was requested against the culprits.

3. The case was registered and the accused were arrested on 16.02.2017, 19.02.2017 and 25.02.2017. On completion of necessary formalities of investigation, challan was filed.

4. Copies of challan were filed by accused free of cost as provided under Section 207 Cr.P.C. On finding a prima facie case under Sections 3, 4, 5, 6, 7 of Immoral Traffic(prevention) Act 1956, vide order dated 11.09.2017, the accused were charge-sheeted accordingly. They pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined following witnesses:-

* **PW1 ASI Rajesh Kumar:** has proved the formal FIR as EX.PW1/A and the endorsement as Ex.PW1/B. In his cross-examination, he has stated that he received the information at 4:35 PM, but because the CCTM system was not working, therefore, the FIR was registered at 7:30 PM.

* **PW2 EHC Mahender:-** has stated that on 16.02.2017, he was on general duty in PS City Palwal and was handed over the special report to be taken to the Illaqa Magistrate for information.

* **PW1 ASI Sudesh Kumar (wrongly mentioned as PW1 and the same is treated as PW1 A):** he has stated that on 25.02.2017, he was posted in PS City, Palwal, and was part of the investigation with SHO Suman Kumar, when accused Mahender Kumar was arrested from Krishna Guest House. He has proved the personal search memo as Ex.PW1/A, arrest memo as Ex.PW1/B and disclosure statement as Ex.PW1/C. He has identified the accused Mahender Kumar present in the court. In his cross-examination, he has stated that they went to arrest the accused on the information of secret informant. He does not know who all were present at the spot at the time of arrest of the accused.

* **PW4 Retd. Inspt. Kamla Devi:** she has stated that on 16.02.2017, she was posted in Women Police station, when she received

the information from Insp. Suman Kumar regarding the raid. She has proved the site plan as Ex.PW4/A, arrest memo of accused Meena, accused Manju, Accused Kavita and accused Geeta as Ex.PW4/B to Ex.PW4/E and of accused Gyanchand, accused Ram Kumar, accused Bharat, accused Dheep Chand, accused Chaman, accused Sunder, accused Manju, accused Kavita, accused Reena and accused Geeta as Ex.PW4/F to Ex.PW4/O. She has also proved the seizure memo of the entry registered as Ex.PW4/P. Accused Dheep Chand has expired and accused Gyan Chand, Reena and Bharat were not present in the court and she has identified the remaining accused present in the court. In her cross-examination, she has stated that she has received the information at 4:50 and reached the spot within 10-15 minutes. Before she reached the spot many public persons were already present but no one was joined as a witness. She stayed at the spot for 3-3:15 hours. She only visited the basement and ground floor and only make the site plan of the same. She has seen the site plan Ex.PW4/A where there is no mention of the floor. She had recovered the entry registered for the same has not been produced in the court. She has admitted that no public witness was joined.

* **PW5 Rahul Kumar, record keeper, Dist. Jail Bhondsi:** has brought the summoned record i.e. the SIR report Ex.PW5/A.

* **PW6 ASI Mahender:** has stated that on 16.02.2017, he was posted as IO in PS City, Palwal, and was on patrolling duty with SHO Suman Kumar and Ct. Bachhan Singh, when the secret informant gave the information to the SHO regarding prostitution racket being run from Krishna Guest House and if raid is conducted, then they could be apprehended. Believing the information, SHO joined LASI Manju and two other female officials in the raid. He was then dressed in civil clothes to act as a decoy customer and was given one signed note of denomination Rs. 500/- and he was already instructed to indicate when the deal was finalized. He entered the Guest House and met with manager Ishwar singh who asked him to join the company of a woman named Manju. As soon as the deal was finalized, he gave the indication to the police team standing outside, who immediately entered the Guest House and started checking the rooms. Accused Chaman, Savita, Pushpender, Manju, Ram Kumar, Kavita, Bharat and Reena were apprehended with the help of female constable. Accused Manju was found in possession of a currency note of Rs.500/- which was signed. He has proved the arrest memos as Ex.PW6/A to Ex.PW6/F and the disclosure statements as Ex.PW4/F. He has identified the accused present in the court. In his cross-examination, he has admitted that he received the information at 3 PM. He does not know whether the SHO had informed the higher authorities or not. He does not remember the number written on the currency note. He has admitted that the note is not present in the court or in the judicial file.

He does not know whether the IO has collected the Guest house entry registered or no. No photography or videography was conducted in his presence. He has not know the public witness was joined or not. He has admitted that the rooms were locked and when the occupants opened the door then they were well dressed. He has stated that no public was present at the spot. He has denied the suggestions put to him.

* **PW7 Rajkumar:** has stated that on 19.02.2017, he was part of the investigation with SHO Suman Kumar and have arrested accused Ishwar Singh. He has proved the personal search memo as Ex.PW7/A, arrest memo as Ex.PW7/B and the disclosure statement as Ex.PW7/C. In his cross-examination, he has stated that the information of the arrest the accused was given to Ombir (relative).

* **PW8 Ram Kumar:** has stated that on 21.02.2017, he was posted as head master of MVM School, and has identified his signatures on the letter head Ex.PW8/A and the copy of registered Ex.PW8/B.

* **PW9 SI Manju:** she has stated that on 16.10.2017, she was posted as IO in Women Police station and upon the information, she reached the spot with two other women constables. SHO Suman Kumar had received the information regarding prostitution taking place in Sh.

Krishna Guest House. SHO had prepared a decoy customer and gave him a Rs. 500/- note and to indicate as and when the lead is finalized. HC Mahender had indicated the same to Insp. Suman Kumar who conducted the raid thereafter, they caught four couples in four different rooms in a questionable state. She has proved the arrest memos as Ex.PW4/B to Ex.PW4/E, seizure memo of Rs.500/- as Ex.PW9/A, which is present in the court. She has also proved the disclosure statement as EX.PW4/L to EX.PW4/O. She has also proved the entry registered Ex.PW4/P which is present in the court which bears the names of the accused at serial no. 7, 8, 9 and 10. In her cross-examination, she has stated that she does not remember the exact time when she received the information. She does not remember the name of the hotel or its manager. She has admitted that no videography was conducted at the spot and all the rooms were situated on the ground floor. She has admitted that the time of the raid all the rooms were locked from inside. She has admitted that public had gathered at the time. IO had only prepared the site plan of the ground floor. She has admitted that there is no mention of the floor in the site plan. She remained present at the spot for 3 hours. She has admitted that Rs.500/- note bears signature of Insp. Suman Kumar but the same type of signature of Insp. Suman Kumar is no where seen in the judicial file. Self stated that the currency not bears initial signatures of SHO Suman whereas on the judicial file, court file the SHO has appended his full signatures Nothing material could be elicited from her further cross-examination.

* **PW10 Retd. Insp. Suman Kumar:** has stated that on 16.02.2017, he was posted as SHO in PS City, Palwal. On that day he was on crime patrolling duty with HC Mahender and Ct. Sunder Singh and driver Bachhan Singh near bus stand, when the secret informant gave the information that prostitution is being run in Krishna Guest House by owner Mahender and Ishwar Singh manager. Upon that information, he joined three women police officials and deputed HC Mahender as a decoy customer in civil dress and handed over to him a Rs.500/- note with his initial signatures having number 2AR-760208. Thereafter, when HC Mahender gave the indication then they raided the premises wherein accused persons were found in hotel room in a questionable state. Accused Sunder and Deep Chand were waiting for their turn at the reception and Ishwar Singh Punia was present at the reception. During investigation accused Manju was found in possession of Rs.500/- note which was handed over by the decoy customer. He has proved the arrest memos of accused Ishwar as Ex.PW7/B and of accused Mahender. He has recover the documentation of ownership of Krishna Guest House vide memo Ex.PW10/B. He has seen the currency note in the court as Ex.PW9/B. In his cross-examination, he has stated that the Guest House had one basement and two floors. They had inspected the basement and first floor. He has admitted that the rooms were locked from inside. He cannot tell which accused was apprehend from which room. He has

admitted that Mahender was not arrested from the spot. He has admitted that no public witness was joined in the investigation.

5. Thereafter, the prosecution evidence was closed on 10.07.2026 by the Ld. APP vide separate statement.

6. Statements of accused u/s 313 Cr.P.C. recorded by putting the whole incriminating evidence came against them. The accused have denied the allegations of the prosecution and pleaded that they have been implicated in a false case. However, they led no evidence in defence.

7. During course of arguments learned APP submitted that the prosecution has successfully established its case against the accused as all the accused were caught red handed from the spot and the recovery of the note handed over by the decoy was recovered from one of the girls who was to offer her services. Hence, the case of the prosecution is watertight and the accused be held guilty.

8. On the other hand, learned defence counsel argued that this case has been falsely registered against the accused on basis of concocted facts. There is no independent witness in this case and no effort has been made by the IO to join independent witness. There are material contradictions in the version of the prosecution witnesses. The guilt of the

accused has not been proved beyond reasonable doubt. Ultimately, prayer has been made to acquit them.

9. I have heard the learned APP for the State and learned defence counsel and have gone through the record on file thoroughly and very carefully and I am of the considered view that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt.

10. Before moving ahead it is relevant to mention that the FIR in this case was registered on the complaint of Inspector Suman Kumar, who was also entrusted with the task of investigation. The complainant is always interested in the success of his case. In case investigation is also conducted by complainant, then free, fair and impartial investigation cannot be expected. Such kind of practice has been deprecated by Hon'ble Supreme Court of India in case law titled as *Megha Singh Vs. State of Haryana, 1997 (2)RCR Criminal -3*. Thus, benefit of doubt has to be given to the accused. It is a cardinal principle of criminal jurisprudence that an accused is presumed to be innocent and therefore, the burden lies on the prosecution to prove the case of accused beyond reasonable doubt. The prosecution is under obligation to prove each and every ingredient of the offence beyond any doubt unless otherwise, so provided by any statute. Strongest of suspicion does not constitute the proof required. In this case the prosecution has examined ten witnesses and all of them are

official police witnesses. PW6 ASI Mahender was a decoy customer and it was he who had gone to the guest house first of all. He has supported prosecution version in his chief-examination however, in his cross-examination he could not tell the number of the currency note which was handed over to him. Furthermore, the currency note was not produced during deposition of this witness to be put to him. Even the entry register wherein he had got recorded his entry has not been produced in the court.

11. Furthermore, it is pertinent to note that despite having a tip off, no independent person had been joined by the Investigating officer before conducting the raid. There was every possibility for the IO to have joined and no reason has been mentioned and offered for not joining one in the raid.

12. Moreover, another crucial case property i.e the entry register of Krishna Guest house has not been produced during the entire trial. This document was sacrosanct to prove the presence of the accused at Krishna Guest house.

13. Furthermore, there are inherent contradictions in the version of PW4, PW6 and PW9. PW4 has stated that when she reached the spot then many public persons were present and a crowd had gathered. In contrast, PW6 has stated that no public had gathered at the spot. Whereas

PW9 has mentioned that there was a lot of public at the spot. Moreso, the prosecution witnesses were also at loggerhead with regard to the area searched and as to how many floors were present in the guest house. From the site plan it cannot be deciphered as to which floor was checked. As per PW4, the team had searched basement and ground but there is no mention as to which floor had been drawn up in the site plan. From totality of the reading of all the testimonies, it is not clear as to the alleged accused were captured from which room.

14. Furthermore, there is another very crucial dent in the case of the prosecution as the whole version of the prosecution is that the accused were found in questionable state in every room. PW4 in her deposition has stated that all the rooms were latched/locked from inside and when the rooms were opened they were well dressed, whereas PW9 has stated that the couples were found in questionable state. PW6 has on the contrary stated that the couples were well dressed when they exited from the latched rooms. There is no explanation offered by the prosecution regarding the definition of questionable state and as to how the IO came to the deduction that there were indulging in any sexual act.

15. There is no recovery of any sexual device or protection being used by the couples to draw an inference that they were indulging in such acts. Furthermore, it was possible for the IO to have videographed the

entire raid before proceeding to the guest house and no such evidence collection has been done by the IO for the reasons best known to the IO.

16. From depositions of prosecution witnesses it is clear that no independent witness has been joined in the raiding party. It is a well settled law that non-joining of independent witness creates doubt on the case of the prosecution. At this stage, I draw my support from the case titled as *Jeet Singh Vs State of Punjab, 1998(1) RCR-Crl.274.*

17. Furthermore, the prosecution has arrayed Mahender as an accused on the basis of document mark A which is a general power of attorney which has been executed by Geeta in favour of Mahender Kumar and on the basis of document mark A which is form ST-2 issued by the department of Central Board of Excise and customs. The premise of the investigating officer is that on the basis of these documents, Mahender Kumar was the owner of the Krishna Guest House. These documents have not been proved by the prosecution as per the prescribed procedure of the law. Therefore, the prosecution has failed to prove the complicity of accused Mahender in the present case.

18. In view of above discussion when the complainant has himself investigated the case and when as admitted by the prosecution witnesses he did not make any effort to join the independent person from

public into investigation, it cannot be assumed that prosecution version is true beyond reasonable doubt. I am of the considered opinion that the accused are entitled to get protection of well recognized principle of benefit of doubt as it is well settled that whenever two views are possible the one inclining towards innocence of accused must be adopted.

18. Hence, by affording benefit of doubt accused persons namely **Ishwar, Bharat, Chaman Lal, Manju @ Kavita, Sunder Singh, Reena, Gyan Chand, Ram Kumar, Prince @ Pushpender, Geeta and Mahender** are acquitted from the charged levelled against them. Accused persons are directed to furnish fresh bail bonds in the sum of Rs. 10,000/- with one surety each of the like amount in compliance of Section 437-A of Cr.P.C. Bonds furnished. Accepted and attested. File, after due compliance, be consigned to the record room.

Pronounced in open Court.
Dt. 18.07.2026

(Aakriti Verma)
Judicial Magistrate Ist Class,
Palwal UID HR-00498

Note: This Judgment contains sixteen pages and each page has been signed by me.

(Aakriti Verma)
Judicial Magistrate Ist Class,
Palwal UID No. HR-0498

Gunjan-III

Present: Sh. Naresh Kaushik, Ld. APP for State.
Accused **Prince @ Pushpender** on bail represented by Sh. P. K. Shorya, Advocate.
Accused **Ram Kumar** on bail with Sh. Rakesh Sharma, Advocate.
Accused **Gyan Chand** on bail with Sh. Subhash Sharma, Advocate.
Accused **Reena** on bail with Sh. Akash Chauhan, Advocate.
Accused **Sunder Singh** on bail represented by Sh. Rajesh Bhardwaj, Advocate.
Accused **Manju** on bail with Sh. Nasir Khan, Advocate.
Accused **Geeta and Mahender** on bail with Sh. Parveen Gupta, Advocate.
Accused **Kavita** on bail with Sh. Azad Singh Poswal, Advocate.
Accused **Bharat** on bail with Sh. Deepender Poswal, Advocate.
Accused **Ishwar** on bail with Sh. Rajender Garg, Advocate.
Accused **Chaman** on bail with represented by Sh. Mahesh Chand Sharma, Advocate.
Accused Deep Chand (Proceedings dropped vod 29.08.2024)

Today the case was fixed for arguments. Arguments heard.

Order pronounced. Vide my separate judgment of even date, by affording benefit of doubt accused are acquitted from the charged levelled against them. Accused persons are directed to furnish fresh bail bonds in the sum of Rs. 10,000/- with one surety of the like amount in compliance of Section 437-A of Cr.P.C. Bonds furnished. Accepted and attested. File, after due compliance, be consigned to the record room.

Pronounced in open Court.
Dt. 18.07.2026

(Aakriti Verma)
Judicial Magistrate Ist Class,
Palwal UID HR-00498