



HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 4375 OF 2026

BETWEEN:

MIS. JIRATCHAYA
W/O MAHAMAD HANEEF
AGED ABOUT 42 YEARS
R/AT NO-3/12, TOKLAO ROAD
BUANGERN SUB DISTRICT
NAMPHONG DISTRICT
KHAEN KAEN PROVINCE
THAILAND – PIN - 40150

PRESENTLY AT
FOREIGNER'S RESTRICTION
CENTRE FOR WOMEN
DIBBUR COLONY
NEAR KYATHASANDRA
TUMAKURU – 572 106.

...PETITIONER

(BY SRI BASAVARAJU T.A., ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
RAMAMURTHY NAGAR POLICE STATION
BENGALURU CITY,
REPRESENTED BY
STATE PUBLIC PROSECUTOR
PUBLIC PROSECUTORS OFFICE





HIGH COURT BUILDING
HIGH COURT OF KARNATAKA
AMBEDKAR VEEDI
AT BANGALURU- PIN- 560 001.

2. SIDDALINGAYYA HIEMATH
POLICE OFFICER-PC-17893
AGED ABOUT 32 YEARS
RAMAMURTHY NAGAR POLICE STATION
BENGALURU CITY – 560 016.
3. THE FOREIGNERS REGIONAL
REGISTRATION OFFICE (FRRO)
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING,
K.H. ROAD, SHANTHINAGAR,
BENGALURU – 560 027.

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1 AND R-2;
SRI H.SHANTI BHUSHAN, DSGI FOR R-3.)

THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528 BNSS) PRAYING TO DIRECT THE FRRO BENGALURU, TO DEPORT THE PETITIONER TO HER COUNTRY IN CONNECTION WITH CRIME NO-80/2026 OF RAMAMURTHY NAGAR POLICE STATION, FOR AN OFFENCE UNDER SECTION 143(2) OF BNS AND SECTION 3, 4, 5 OF I.T.P ACT, WHICH IS PENDING ON THE FILE OF HONBLE XI ADDL. CHIEF JUDICIAL MAGISTRATE AT BENGALURU CITY.



THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before this Court seeking a direction to respondent No.3 – the Foreigners Regional Registration Office to deport to her country – Thailand, on the score that she is one of the victims of a crime in Crime No.80/2026, pending before the XI Additional Chief Judicial Magistrate, Bengaluru, registered for the offences punishable under Sections 143(2) of the BNS and Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

2. Heard Sri T.A.Basavaraju, learned counsel for petitioner, Sri B.N.Jagadeesha, learned Additional State Public Prosecutor for respondent Nos.1 and 2 and Sri Shanthi Bhushan H., learned Deputy Solicitor General of India for respondent No.3.



3. On a credible information by the police on 03.02.2026, that at Trinity Thai Spa Wellness Centre, No.35, 2nd Floor, accused Nos.1 and 2 are running a brothel and trafficking women from different places within the jurisdiction of the respondents - police, the police conduct raid at 1.30 p.m., and arrested the petitioner and another. A crime is then registered on the score that a brothel is being run at the said place by the accused persons. While search and raid by the police, the petitioner – victim is rescued and is sent to the custody of the FRRO, Bengaluru, on 05.02.2026. Since then, the petitioner is staying in the detention centre. The averment in the petition is that, the petitioner is pleading that her Visa documents have expired and admits that she is over-staying in the Country and wants to go back to her place - Thailand.

4. Learned counsel for the petitioner would take this Court through the averments made in the petition to contend that the petitioner is wanting to go back to her country as she had come to India in search of job and become a victim at the hands of the accused persons. He would submit that the petitioner is suffering from psychological illness due to legal



process for investigation, which is conducted by the police in the aforesaid crime and she is unable to go back to her country on the score that the visa and passport are expired.

5. Sri Shanthi Bhushan H., learned Deputy Solicitor General of India appearing for respondent No.3 – the Foreigners Regional Registration Office would submit that steps will be taken in terms of the Model Standard Operating Procedure ('SOP' for short).

6. The Additional State Public Prosecutor representing the respondent – State would admit the aforesaid facts.

7. I have given my anxious consideration to the submissions made by the learned counsel for the parties and have perused the material on record.

8. The afore-narrated facts are not in dispute. The petitioner is the victim of prostitution and hails from Thailand. The accused persons were arrested and the petitioner was rescued and handed over to respondent No.3.



9. The plea of the petitioner before this Court is that, she wants to go back to her country - Thailand. The issue would be, whether the petitioner be sent back to her country - Thailand, when the prosecution is pending in which the petitioner is a victim. The Government of India on 25.11.2025, has issued a Standard Operating Procedure, governing the withdrawal of prosecution in cases involving foreign nationals, with the avowed objective of facilitating their deportation. The preamble to the said SOP records circumstances which necessitated its formulation. The preamble is as follows:-

"I am directed to say that misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in the India has been observed by the Law Enforcement Agencies in various States/UTs. Once the case is registered, these foreigners use various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country.

2. This matter came up for consideration at the DGsP/IGsP Conference, 2024, when it was inter alia decided that a comprehensive policy/legal framework to



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prevent misuse of judicial process by foreigners to overstay may be formulated by the Ministry of Home Affairs, in consultation with all stakeholders. It was further decided that the policy may examine withdrawal of cases where punishments were less than 7 years to facilitate deportation.

3. Accordingly, the matter regarding framing of a model Standard Operating Procedure (SOP) for withdrawal from prosecution in cases filed against foreigners to facilitate their deportation has been examined by this Ministry in consultation with various stakeholders. Based on the inputs received from various stakeholders, a model SOP has been prepared in this regard within the framework of Section 360 of Bharatiya Nagrik Suraksha Sanhita, 2023 (46 of 2023) and a copy of the same is enclosed.

4. The model SOP indicates the types of cases where withdrawal from prosecution may be considered against the foreigners, types of cases where such withdrawal from prosecution may not be considered and the detailed procedure that may be followed by State/UT prosecuting agencies and central prosecuting agencies for withdrawal from prosecution in such cases. Review of such cases by two Committees i.e., one District Level Screening Committee and another State Level Screening Committee in cases filed by State/UT prosecuting agencies is envisaged in the model SOP. In cases filed by central prosecuting agencies, it has been suggested that they may consider constituting an Agency Screening Committee to review such cases.

5. The objective of this model SOP is to prevent misuse of the judicial process by foreigners to prolong their stay in India. This will facilitate early deportation of such foreigners from the country and will also help in conservation of valuable judicial resources.

6. State/UT prosecuting agencies and central prosecuting agencies are advised to consider adopting the enclosed model SOP, by taking approval of the respective



competent authorities, for withdrawal from prosecution in respect of cases filed against foreigners. Steps taken in this regard may please be intimated to this Ministry at the earliest."

(Emphasis supplied)

It is observed that certain foreign nationals have been misusing the legal process of the country by deliberately implicating themselves in criminal proceedings, so as to thwart or delay deportation and thereby prolong their stay within the territory of India. The background to bring in the SOP reads as follows:

"1. Background

Misuse of legal procedures by certain foreign nationals who intentionally implicate themselves in criminal offences to delay deportation or gain prolonged stay in India has been observed by the Law Enforcement Agencies in various States/UTs. Once the case is registered, these foreigners use various legal and procedural tactics viz., repeated adjournments sought on medical grounds, change of counsel, filing frivolous applications before the trial Court such as bail & discharge, absconding between hearings, claiming refugee status on frivolous ground during pending trial and by challenging various stages of trial procedure in higher courts. These tactics have often resulted in prolonged under-trial detention or bail with restrictions, effectively allowing them to remain in India for years and expand their criminal activities, gangs and organized crimes in the country.

In the DGsP/IGsP Conference, 2024, it was inter-alia decided as under:



"A comprehensive policy/legal framework to prevent misuse of judicial process by foreigners to overstay, to be formulated by MHA, in consultation with all stakeholders, including MEA, IB and legal officers. The policy would examine withdrawal of cases where punishments were less than 7 years, to facilitate deportation."."

The types of cases where withdrawal of prosecution is to be considered are as follows:

"3. Types of cases where withdrawal from prosecution may be considered against the foreigners.

- (i) An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which is compoundable under Section 359 of the Bharatiya Nagarik Suraksha Sanhita, 2023(Act 46 of 2023).
- (ii) **An offence registered under the Bharatiya Nyay Sanhita, 2023 (45 of 2023) which carries a punishment of imprisonment of up to 7 years.**
- (iii) An offence registered under any Central Act, including the Immigration and Foreigners Act, 2025 (13 of 2025) and its predecessor Acts, but other than Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 (61 of 1985) or any State Act which is compoundable and/or where the punishment provided for the offence in the Act is imprisonment of up to 7 years.
- (iv) An offence under the NDPS Act which carries a punishment of imprisonment up to ten years.
- (v) Cases involving inexpediency of prosecution where trial is pending for more than five years."

(Emphasis supplied)



In the light of the afore-quoted Standard Operating Procedure, steps be taken to deport this petitioner by respondent No.3. If the Standard Operating Procedure would not permit deportation, the prosecution shall continue.

10. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is **disposed**.
- (ii) The respondent No.3 shall follow the procedure in terms of the Standard Operating Procedure and take further steps to deport the petitioner to her country - Thailand, in case if not required in any of the prosecution / proceedings.

Ordered accordingly.

SD/-
(M.NAGAPRASANNA)
JUDGE

NVJ
List No.: 2 Sl No.: 97