

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION NO. 13259 OF 2010

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ORDER:

1. This is a Criminal Petition filed by the petitioner/A2 under Section 482 of Code of Criminal Procedure, 1973 (for short "Cr.P.C.") to quash the proceedings in C.C. No.84 of 2008 on the file of the Judicial Magistrate of First Class, Nandyal for the offences punishable under Sections 3(2)(a), (b) and Section 4 (a) (b) of Immoral Traffic (Prevention) Act, 1956 (for short "the Act").

2. The allegations in the charge sheet are as under:

On 03.12.2007 at about 8.20 p.m. while LW.6 was present in his circle office, he received a credible information about the activities going on in the house bearing No.28/10-82-F, situated at Saibabanagar, Nandyal town. Along with the mediators, LW.6 proceeded to the house and found A1 and A2 involving in sexual exploitation. On interrogation, A1 alleged to have confessed that she has started prostitution in her residence for the sake of herself and for meeting the medical expenditure of her parents. According to her, she used to contact knowing girls through her cell phones and also male persons, arrange their meeting in her house. According to the said confession, on 03.12.2007 she contacted A2, took Rs.1,000/- from him for the purpose of his sexual exploitation at her residence with her. Pursuant to the said confession, both the accused were arrested and the police also seized Nokia cell phone and cash of Rs.1,000/- under a panchanama. Initially, a case in Cr.No.207 of 2007 of Nandyal Police station was registered and after completion of investigation, filed the charge sheet.

3. Heard both sides.

4. The learned counsel for the petitioner mainly contends that even accepting the allegations in the charge sheet as true, no offence is made out

against the petitioner by the prosecution. It is further contended that the charge sheet is silent as to the role of the petitioner either in managing or assisting in the management of the brothel house. It is contended that the Act is silent with regard to the offence committed by a person, who visits the brothel.

5. On the other hand, the learned Public Prosecutor would contend that specific allegations are made against the petitioner, which when accepted in their entirety constitute an offence punishable under Section 3 (2) (b) of the Act.

6. Section 3 of the Act deals with punishment for keeping a brothel or allowing premises to be used as a brothel. Section 4 of the Act deals with punishment for living on the earnings of prostitution. Section 5 of the Act prescribes punishment for carrying or inducing or procuring a person for carrying on prostitution and Section 7 of the Act denotes that a person, who runs a brothel house to satisfy his sexual urge, can be punished under the provisions of this Act.

7. A perusal of Sections 3 to 7 of the Act would clearly establish that a person, who runs a brothel for the purpose of earning, procures persons for prostitution is liable for punishment under the Act. The Act is silent with regard to the punishment for the person, who goes to the said brothel house to satisfy his sexual urge. Since the allegations in the charge sheet and the panchanama, which has been prepared at the scene of offence, would only disclose that the petitioner visited the house of A1 by paying Rs.1,000/- to A1. It cannot be said that the petitioner can be prosecuted for offences under Sections 3 and 4 of the Act. In similar circumstances, this Court by its order dated 28.10.2010 in Criminal Petition No.7989 of 2010 quashed the proceedings.

8. In view of the same, this Court is of the view that the present complaint against the petitioner is without any legal basis and continuation of the same would amount to abuse of process of the Court.

9. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/A2 in C.C. No.84 of 2008 on the file of the Judicial Magistrate of First Class, Nandyal are hereby quashed. The miscellaneous petitions, if any pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 30-04-2013

MR

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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