



CGHC010135272022



2026:CGHC:44344

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 125 of 2022

State Of Chhattisgarh Through The District Magistrate, District -Korba
Chhattisgarh.

... Appellant

versus

1 - Puja Adhikari W/o Dularchand Shah, Aged About 24 Years R/o Mig-1/169,
M.P. Nagar, Korba, District - Korba Chhattisgarh.

2 - Shabana Yasin W/o Late Asraf Aged About 28 Years R/o Mig-1/169, M.P.
Nagar, Korba District Korba Chhattisgarh.

3 - Ku. Pampa Das D/o Sona Das Aged About 18 Years R/o Mig-1/169, M.P.
Nagar, Korba, District -Korba Chhattisgarh.

... Respondents

(Cause title taken from Case Information System)

 For Appellant

: Ms. Supriya Upasane, Govt. Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal
Order on Board
13/10/2026

1. Pursuant to the order dated 17.09.2026, theailable warrant issued against the respondents have been returned unserved with the endorsement that their whereabouts could not be found as they are

not found in their given address.

2. Since on the earlier occasion also, the bailable warrant could not be served upon them as their whereabouts could not be found. Considering the facts and circumstances of the case, with the consent of the learned counsel appearing for the appellant, the matter has been heard finally.
3. Present is an acquittal appeal filed by the State against the impugned judgment of acquittal dated 28.08.2014 passed by learned Additional Sessions Judge, FTC, Korba in Criminal Appeal No. 26 of 2014, whereby the respondents/accused persons have been acquitted from the offence of Section 4 of the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as "the Act of 1956").
4. Brief facts of the case are that, on 11.07.2013, a secret information was received by the Deputy Superintendent of Police, Korba that in the house No. MIG 1/169, Maharana Pratap Nagar, Korba certain accused persons are running prostitution and used the said house as brothel and they have brought certain female members from other places. The police team conducted raid there and found certain objectionable situation and thereafter the accused persons were arrested, the objectionable items were seized and an FIR against the accused persons for the offence under Sections 3, 4, 5, 6 and 7 of the Act of 1956 have been registered. After due investigation, the charge-sheet was filed against 09 accused persons including the present respondents before the learned Chief Judicial Magistrate, Korba under the aforesaid offences.

5. The learned Trial Court framed the charges against the present respondents under Sections 6 and 7 of the Act of 1956, whereas the charge against the other accused persons have been framed under Sections 3, 4, 5, 6 and 7 of the Act of 1956.
6. In order to prove the charge against the accused persons, the prosecution has examined as many as 07 witnesses. Statement of the accused persons under Section 313 of CrPC have been recorded, in which they denied the circumstances that appears against them, pleaded innocence and have submitted that they have been falsely implicated in the offence.
7. After appreciation of the oral as well as documentary evidence led by the prosecution, the learned Trial Court, vide its judgment dated 22.07.2014, has acquitted the present respondents of the offences punishable under Sections 6 and 7 of the Act of 1956. Instead, they have been convicted for the offence punishable under Section 4 of the Act of 1956. The other accused persons, namely, Tapas Sengupta, Amit Kumar Agarwal and Geeta Sonwani, have been convicted for the offences punishable under Sections 3, 4 and 5 of the Act of 1956. The accused persons, namely, Rajesh Kumar Singh, K.G. Ratnam and Hemant Rathore, have also been acquitted of the offences punishable under Sections 6 and 7 of the Act of 1956; instead, they have been convicted under Section 5 of the Act of 1956. The present respondents have been sentenced to undergo rigorous imprisonment for 02 years each and to pay a fine of Rs. 500/- each for the offence punishable under Section 4 of the Act of 1956, with default stipulations.

8. The said judgment of conviction and sentence passed by the learned Trial Court was challenged by the present respondents by filing their Criminal Appeal No. 26 of 2014 before the learned Additional Sessions Judge, FTC, Korba, which was decided on 28.08.2014, and the respondents/accused persons have been acquitted from the offence under Section 4 of the Act of 1956, against which the present appeal against acquittal has been filed by the State.
9. Learned counsel appearing for the appellant would submit that, the prosecution has proved its case beyond reasonable doubt, The learned appellate court has acquitted the respondents/accused persons by setting aside the well-reasoned and well-founded judgment passed by the learned trial court, by holding that the provision of Section 4 of the Act of 1956 is not applicable to the respondents/accused persons and they cannot be convicted for the said offence. Referring to paragraph 40 of the judgment passed by the learned appellate court, he would submit that the act of the respondents/accused persons thus come under the purview of Section 4 of the Act of 1956 as they depend upon their earning through the prostitution, though it not come in specific words, but their conduct and their involvement in such activities clearly defines that they were earning and dependent upon the said act of their prostitution at the brothel. Therefore, the acquittal of the respondents/accused persons suffers from material irregularity and illegality and the impugned judgment of acquittal is liable to be set aside by affirming the judgment passed by the learned Trial Court.

10. I have heard learned counsel for the appellant and perused the record of the trial court as well as relevant provisions of the Act of 1956.
11. Before examining the material against the respondents/accused persons, it would be appropriate to notice the relevant provisions of the Act of 1956, which reads as under:-

“4. Punishment for living on the earnings of prostitution.-

(1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of [any other person] shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both [and where such earnings relate to the prostitution of a child or a minor, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years].

(2) where any person over the age of eighteen years is proved-

(a) to be living with, or to be habitually in the company of, a prostitute; or

(b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling his prostitution; or

(c) to be acting as a tout or pimp on behalf of a prostitute, it shall be presumed, until

the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (1).]

5. Procuring, inducing or taking [person] for the sake of prostitution.-

(1) Any person who-

(a) procures or attempts to procure a [person] whether with or without his consent, for the purpose of prostitution; or

(b) induces a [person] to go from any place, with the intent that he may for the purpose of prostitution become the inmate of, or frequent, a brothel;

(c) takes attempts to take a [person] or causes a [person] to be taken, from one place to another with a view to his carrying on, or being brought up to carry on prostitution; or

(d) causes or induces a [person] to carry on prostitution; [shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of

whom an offence committed under this sub-section, -

(i) is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and

(ii) is a minor, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years;]

(2) [***]

(3) An offence under this section shall be triable-

(a) in the place from which a [person] is procured, induced to go, taken or caused to be taken or from which an attempt to procure or take such [person] is made; or

(b) in the place to which he may have gone as a result of the inducement or to which he is taken or caused to be taken or an attempt to take him is made.”

12. A plain reading of Section 4 of the Act of 1956 clearly indicates that the provision applies where a person knowingly lives, wholly or in part, on the earnings of the prostitution of another woman or girl. The allegation against the respondents/accused persons is not that they were living on the earnings of the prostitution of any other woman or girl. On the contrary, the prosecution case is that they themselves

allegedly engaged in prostitution. The presumption under Section 2 is also intended to operate against a person living on the earnings of the prostitution of another person. There is no allegation in the present case that the respondents/accused persons were receiving or appropriating the earnings of any other woman or girl or were acting as touts or pimps on behalf of another prostitute. Thus, the basic ingredients of Section 4 are absent, and the charge under this section cannot, therefore, be sustained against them. Further, there was no charge against the respondents/accused persons for the offence under Section 4 of the Act of 1956 framed by the learned trial court, and they were prosecuted for the offence under Sections 6 and 7 of the Act of 1956.

13. After having gone through the para 40 of the impugned judgment, it transpires that the learned appellate court has rightly considered the provisions of Section 4 of the Act of 1956 and by holding that the present respondents/accused persons cannot be convicted for the offence under Section 4 of the Act of 1956, acquitted them from the said offence.
14. In the case of **Budhadev Karmaskar v. The State of West Bengal and others**, (2022) 20 SCC 220, the Hon'ble Supreme Court has held that:-

“5.4. Whenever there is a raid on any brothel, since voluntary sex work is not illegal and only running the brothel is unlawful, the sex workers concerned should not be arrested or penalised or harassed or victimised.”

15. In the present controversy, the judgment of **Ajaib Singh and another v. State of Punjab and others**, decided by the Punjab and Haryana High Court in Criminal Revision No. 944 of 2018 (O&M), decided on 14.9.2026 is also relevant for consideration about the issue involved in the present case.
16. The scope of interference by an appellate court in an appeal against acquittal is well settled by the Hon'ble Supreme Court. In the case of **State of Rajasthan v. Kistoora Ram**, reported in 2022 SCC OnLine SC 984, the Hon'ble Supreme Court has held as follows:

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

17. Further, in the case of **Jafarudheen and Others v. State of Kerala**, reported in (2022) 8 SCC 440, the Hon'ble Supreme Court, while considering the scope of interference in an appeal against acquittal, has held in paragraph 25 as under:

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the Appellate Court has to consider whether the Trial Court's view can be termed as a possible

one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

18. Similarly, in the case of ***Central Bureau of Investigation v. Shyam Bihari and Others***, reported in (2023) 8 SCC 197, the Hon’ble Supreme Court has observed in paragraph 27 as under:

“27. It is trite law that in an appeal against acquittal, the power of appellate court to re appreciate evidence and come to its own conclusion is not circumscribed by any limitation. But it is equally settled that the appellate court must not interfere with an order of acquittal merely because a contrary view is permissible, particularly, where the view taken by the trial court is a plausible view based on proper appreciation of evidence and is not vitiated by ignorance/misreading of relevant evidence on record.”

19. In the present case, as discussed hereinabove, the learned appellate court has rightly considered the ingredients of Section 4 of the Act of 1956 and held that the prosecution failed to establish the essential

ingredients of the said offence against the respondents/accused persons. The allegation that the respondents/accused persons were themselves engaged in prostitution, by itself, does not establish that they were knowingly living, wholly or in part, on the earnings of the prostitution of another woman or girl. In the absence of the essential ingredients of the offence under Section 4 of the Act of 1956, the acquittal of the respondents/accused persons cannot be said to be erroneous. This Court finds that the view taken by the learned appellate court is a plausible view based on the relevant statutory provisions and the material available on record.

20. Having considered the entire facts and circumstances of the case, the findings recorded by the learned appellate court and the settled legal position laid down by the Hon'ble Supreme Court in ***Kistoora Ram*** (supra), ***Jafarudheen*** (supra) and ***Shyam Bihari*** (supra), this Court is of the considered opinion that no perversity, illegality or infirmity is made out in the impugned judgment warranting interference in the present appeal against acquittal. The impugned judgment is based on a plausible view of the matter, and no ground is made out for setting aside the acquittal of the respondents/accused persons.
21. Accordingly, the present acquittal appeal, being devoid of merit, is hereby **dismissed**.

Sd/-
(**Ravindra Kumar Agrawal**)
Judge