

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 70 OF 2015

Lester Barreto
Son of Ivo Barreto,
aged 47 years,
resident of H.No.57,
Sirvodem, Navelim,
Salcete Goa.

....

Petitioner

V e r s u s

State of Goa,
Through Police Inspector,
Margao Police Station

....

Respondent

Mr. V. Sardessai, Advocate for the petitioner.

Ms. M. Pinto, Additional Public Prosecutor for the respondent.

CORAM : K. L. WADANE, J

ORDER RESERVED ON : 30.09.2015

ORDER PRONOUNCED ON : 06.10.2015

ORDER :

This is a revision filed by the petitioner/accused no.2 challenging the order dated 13.08.2015 passed by the Additional Sessions Judge, South Goa, Margao, in Sessions Case No. 1/2015 by which the learned Additional Sessions Judge has refused to discharge the accused. Hence the present revision application.

2. The brief facts of the case may be stated as follows :

On 10.04.2014 between 14.00 hours to 16.40 hours, the accused no.1 conspired with accused nos. 2 and 3 at Shezer Hotel, Khareband, Margao, and procured two minor girls for the purpose of prostitution. The minor girls were detained in hotel Shezer which was used as "brothel". It is also the case of the prosecution that these activities were found to be carried out in the close vicinity of a religious place, that is, Kalavati Mandir and the accused were found to be living on the earnings of the prostitution. The panchanama was prepared in the presence of the panchas. At the time of the raid, it was found that some minor girls were brought to the hotel for the purpose of prostitution. Therefore, the accused persons have been charged for the offences punishable under Sections 120-B, 370-A (2) of the Indian Penal Code and Sections 3, 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act of 1956.

3. I have heard the arguments of Mr. V. Sardessai, learned counsel appearing for the petitioner and Ms. M. Pinto, learned Additional Public Prosecutor appearing for the respondent.

4. During the course of the arguments, Mr. V. Sardessai, learned counsel appearing for the petitioner has argued that there is no evidence on record to show that the present petitioner/accused no.2 was present in the hotel at the time of the raid nor there is evidence to show that he was running/managing the hotel at the relevant point of

time. He further argued that there is no such mention in the power of attorney executed by the owner of the hotel in his favour that the petitioner/accused no.2 is authorised to conduct day-to-day business in the hotel. Therefore, according to the learned counsel there is absolutely no evidence on record to connect the petitioner to the alleged crime. He therefore prayed to discharge the petitioner/accused no.2.

5. As against this, Ms. M. Pinto, learned Additional Public Prosecutor appearing for the respondent by referring the statements of the victims and other witnesses including the statement of NGO has pointed out that there is sufficient evidence on record to show that at the relevant time the present petitioner was running the hotel and in fact he was present at the time of the raid. Further, by referring various statements of the witnesses, Ms. M. Pinto, learned Additional Public Prosecutor has pointed out that there is sufficient evidence against the accused persons to infer that the accused persons have brought the minor girls for the purpose of prostitution and in fact they were doing the prostitution activities. The learned Additional Public Prosecutor has relied upon the observations in the case of **Ms. Sarika d/o Dinesh Rathi V/s State of Maharashtra and others**, reported in **2008 ALL MR (Cri) 1026**.

6. With the help of the learned counsel appearing for both the parties, I have gone through the various statements of the witnesses, the contents of the panchanama and the power of attorney. From the statement of Mr. Hamilton, it appears that he is the owner of the hotel Shezer including other properties situated at Goa. As per the power of attorney, the petitioner was appointed to look after the properties mentioned in the power of attorney particularly the hotel Shezer. Thus, from the statement of Mr. Hamilton coupled with the contents of the power of attorney, it reveals that at the relevant time of the raid the petitioner/accused no.2 was in possession of the hotel and in fact he was managing the activities of the hotel. Further from the statement of NGO Smt. Auda Viegas, it reveals that some minor girls were found in the one of the rooms of the hotel. From the statement of the one of the victims, it reveals that the manner in which the activities of the prostitution was going on in the said hotel. From the contents of the panchanama, it reveals that the petitioner was present at the time of the raid. He was brought to the police station along with other accused persons and the victims of the prostitution. Therefore, there is sufficient evidence against the accused persons to frame the charge. The observations relied upon by the learned Additional Public Prosecutor in the case of **Ms. Sarika** (supra) are relevant for the purpose of disposal of the revision application and it is considered while scrutinizing the material on record.

7. I have gone through the reasons recorded by the learned Additional Sessions Judge, who has rightly rejected the reliefs claimed by the present petitioner. Consequently, there is no substance in the present revision application. Hence, the revision application stands rejected.

K. L. WADANE, J

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