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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 36 of 2012

The State of Maharashtra

..Applicant.

Vs

Balkrishna Timayya Samant and others

..Respondents.

Mr A.R. Patil, APP for the State.

Mr Ashok Saraogi, Adv.for Respondent Nos. 1 to 4 and 6.

Ms Bhakti Deshpande, Advocate for Respondent No.5.

CORAM : A.R.JOSHI,J

DATE : 29th JUNE, 2015

PC. :

1) Heard learned APP for the State/applicant. Also heard learned counsel for the accused persons who are now the respondents in this application for leave to file appeal challenging the acquittal of the respondents in the matter of offence punishable under Section 366-A and 372 read with section 34 of IPC and u/s 3,4,5 (1) (I) (ii) and 7 (1) (b) (1A) of the Immoral Traffic (Prevention) Act, 1956.

2) The substantive evidence of main prosecution witnesses i.e. the victim girl PW 1, a bogus customer PW 2 and male pancha, PW 5 Sanu George is brought to the notice of this Court by the learned APP for the State and it is submitted that the main gist of the offence as to the raid conducted on a particular lodge, then, allegedly owned by respondent No.1 has been established, inasmuch as respondent Nos. 2, 3, 4 and 5 were then present at the lodge and a particular role is assigned to them by these witnesses. It is also brought to the notice of this Court that the age of the girl below 18 years is also accepted by the trial Court. However, the trial Court

disbelieved the evidence of these witnesses on various counts, including that the six other girls were not examined and one more person by name Jitesh Jala who allegedly gave the initial information to the complainant PW 3, also was not examined.

3) During the arguments, it is argued on behalf of the respondents that there is nothing to establish that respondent accused no.1 was owner of the said brothel and if at all it is accepted that he was owner, still there is nothing that he was knowing regarding running of the brothel in the premises. It is also argued that except the evidence of PW 1 victim girl regarding her stay with respondent No.6, there is nothing to connect respondent No.6 with the offences.

4) Considering the rival submissions and considering the substantive evidence, mainly of PW 1, 2 and 5 coupled with the evidence of recovery of cash amount of Rs.5,000/- which was given by the bogus customer PW 2 to respondent no.3, in the opinion of this Court, there is a point which is required to be dealt with regarding involvement of respondent Nos. 2, 3, 4 and 5, more so when all these respondents were in fact present during the raid conducted at the lodge. In the result, the present application is partly allowed. The appeal as against respondent Nos. 2 to 5 is admitted. Process u/s 390 of Cr.P.C. be issued against them only. So far as respondent Nos. 1 and 6 are concerned, there is nothing to interfere with the judgment and order of their acquittal and hence the present application is rejected insofar respondent Nos. 1 and 6 are concerned. Call for R and P.

(A.R.JOSHI, J.)