

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.65 OF 2014

The State of Maharashtra	..Applicant
<i>Versus</i>	
Ramesh Shivam Ayyer	
and another	..Respondents

....
Mrs. Anamika Malhotra, APP, for the Applicant-State.

....

CORAM : A. R. JOSHI, J.

DATE : 8th JUNE, 2015

P.C.

1. Heard learned APP for the applicant-State on this application for leave to file appeal challenging the acquittal of the respondents in the matter of offence punishable under Section 372 read with Section 34 of IPC and under Sections 3, 4, 5, 6, 7 and 9 of the Immoral Traffic (Prevention) Act, 1956.

2. By order dated 23.10.2013, District Judge No.8 and Additional Sessions Judge, Thane acquitted both the respondents of the charges leveled against them. Being aggrieved by this acquittal, appeal is preferred along with application for leave by the State.

3. The substantive evidence of nine prosecution witnesses has been gone through. Also the reasoning given by the trial Court is seen. What weighed with the trial Court was non-establishment of the link between three currency notes of Rs.500 each which were given to the dummy witness and Rs.1500/- allegedly recovered from the purse of the accused No.2. The learned trial Court had discussed the substantive evidence of panch witnesses and also the contents of the panchnama regarding raid conducted at the flat where allegedly the prostitution was going on, as reported to the police. It appears that this vital link could not be established by the prosecution in order to pin down the respondent/accused No.2 woman. Apart from this, what weighed with the trial Court was non-recording of the secret information received by PW-1 regarding alleged prostitution business being conducted at a particular flat. Nothing was brought before the trial Court that this information was reduced into writing and PI Patil acted on the same and took charge of the investigation. Though there is substantive evidence of PI Anil Patil, still it is factual position that there was no writing of the information in any of the documents. Thirdly the trial Court disbelieved the substantive

evidence of the victim girl, who is PW-3, for the reason that according to her she was called at the said flat at relevant time by one Suresh or on instructions of said Suresh. She was not in any way directly taking name of original accused No.2 woman as the person who called her at the flat when the raid was conducted. Admittedly, said Suresh was not examined by the prosecution in order to connect the accused persons with victim woman (PW-3), though there is substantive evidence of panch witness and that dummy witness regarding actual incident happened during the raid as to they meeting the victim woman in the room and passing on money i.e. Rs.1500/- to accused No.2 woman. Also according to the case of prosecution at the time of raid there were three other girls present and they were also interrogated. However, they were not examined during the trial and this factual position weighed much with the trial Court coming to the conclusion as to failure of the prosecution to establish the charges against the accused persons the present respondents.

4. Considering the effect of the substantive evidence brought before the trial Court and the reasoning given by the

Court while acquitting the respondents/accused, in the opinion of this Court there is nothing to interfere in the order of acquittal while dealing with the appeal challenging acquittal on insufficiency of the evidence. The view taken by the trial Court cannot be considered as perverse or not possible in the given situation and the facts brought before the Court. In the result, there is nothing to reagitate the matter in appeal and as such leave to file appeal is hereby rejected and the present application for leave is dismissed and disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)