

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.186 OF 2014

The State of Maharashtra	..Applicant
-Versus-	
Zarina Juja Ahmed Shaikh	..Respondent

Mr. A.R.Patil, APP for State
Mr.Sachin Ramrao Pawar for respondent

CORAM : A.R.JOSHI, J.

DATE : 9th JUNE 2015

P.C.

1] Heard the learned APP for State and learned Counsel for respondent.

2] This is an appeal along with an application for leave preferred by the State challenging the judgement and order of acquittal of respondent for the offences punishable under section 366(A) of IPC and sections 345, 346 and 7(i)(b) of Immoral Traffic (Prevention) Act, 1956. (for short "the said Act").

3] The impugned judgement and order was passed by the Dist.

Judge-6 and Additional Sessions Judge, Thane dated 10th December 2013.

4] The case of the prosecution in nutshell is that Bhivandi City Police on secret information raided the premises at Indira Nagar Zopadpatti after arranging the presence of pancha witnesses and decoy customer as the information was regarding prostitution going on in the said locality at the hands of present respondent accused. During the raid, panchanama was prepared. The accused was apprehended. Two girls were also rescued who were minor girls. They were referred for medical examination and determination of age. After recording statements of rescued girls and of other witnesses, charge sheet was filed on completion of investigation. During the trial, total eight prosecution witnesses were examined. However, what weighed with the trial court is specifically enumerated in para No.28 of the impugned judgement and order. It is observed by the trial court that the investigation was carried out by P.W.8 but there was nothing to show that he was authorised officer to carry out the investigation under the said Act.

5] It is also observed that there no arrest panchanama of respondent accused was conducted. This position has been accepted by all the witnesses examined before the Court. Moreover, there was nothing on record to show that the respondent accused was in actual physical possession and occupation of the premises in the chawl and this was so as no evidence was brought before the court by way of examining any of the neighbours or owner of the chawl. It was also observed that the origin and source of money which was given to the decoy customer was not established and it was not ascertained whether the same currency notes were recovered from the respondent accused. The muddemal articles i.e. currency notes and Condom packets were not produced before the court during the trial and moreover, the statement of the decoy customer was recorded after two months of the incident.

6] Apart from the above, it was also observed by the trial court that there is discrepancy of timings at which panchanama was recorded and the raid conducted at the premises was concluded.

7] As such the trial court came to the conclusion of failure of prosecution to establish any of the charges against the respondent accused and thus acquitted the accused. Considering the evidence brought on record before the trial court and considering the reasoning given by the trial court, there is nothing to say that the finding arrived at by the trial court was of such a perverse nature so as to be interfered while dealing with the appeal challenging the acquittal. The view taken by the trial court is possible view on the strength of the evidence brought on record before it. In view of the above, the application is accordingly dismissed and disposed of.

(A.R.JOSHI, J.)