

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.2481 of 2015

-

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings against the petitioner/A1 in C.C. No.1045 of 2014 on the file of III Metropolitan Magistrate, Cyberabad at L.B. Nagar, Ranga Reddy District.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. The facts leading to filing of the criminal petition, in brief, are as follows:

On 07.10.2014 at about 6:30 PM, the Station House Officer, Uppal Police Station received reliable information that the petitioner is running a brothel business in the premises bearing H.No.3-10-47 situated at Gokula Nagar, Ramanthapur. The Police raided the said house along with the mediators and found the petitioner and another customer. The Station House Officer, Uppal Police Station *suo motu* registered a case in Crime No.755 of 2014 for the offences under Sections 3, 4 and 5 of Immoral Traffic (Prevention) Act, 1956 (for short, 'the Act'). After completion of investigation, the Investigating Officer laid charge sheet against the petitioner and another under the above referred sections. The learned Magistrate, after satisfying himself with the material placed before him, has taken cognizance of offences against the petitioner and another under Sections 3, 4 and 5 of the Act and numbered the charge sheet as C.C.No.1045 of 2014.

4. The predominant contention of the learned counsel for the petitioner is that the provisions of the Act are not applicable to the facts of the case on hand.

5. As per the allegations made in the charge sheet, the petitioner used to invite her old friends to house and participate in sexual intercourse by collecting Rs.1,000/- from them. It is not the case of the prosecution that the petitioner/A.1 has been soliciting the customers in a public place or the petitioner/A.1 is earning money by running the brothel house with the help of sex workers. To substantiate the arguments, the learned counsel for the petitioner has drawn my attention to **Vaddadi Rajeswari v. State**, wherein para No.9 reads as follows:

“A plain reading of the above referred provision clearly indicates that it is applicable only to persons(s) living on the earnings of a prostitute or trafficked victim and is not applicable to prostitute/trafficked victim herself. Section 2(f) of the Act defines prostitution as meaning sexual exploitation or abuse of persons for commercial purposes. The expression “prostitute” shall be construed accordingly. Section 4(l) of the Act states that 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. Hence it is illegal for a prostitute/trafficked victim to be charged under this section. This Act does not punish or makes liable for action a woman who carries on prostitution for her own gain as long as she does not violate the prohibition of soliciting or seducing in a public place. This section is clearly applicable only to another person. It is a section meant to punish the people living on her earnings only. Even if the version of the prosecution is accepted, the petitioner is not living on the earnings relating to prostitution of others. Therefore, the ingredients of Section 4 of the Act are not made out. In that view of the matter, continuation of proceeding against the petitioner in CC No.585 of 2011 amounts to abuse of process of Court.”

6. The facts of the case on hand are almost identical to the facts of the case cited supra. The allegations made in the charge sheet do not constitute the offences punishable under Sections 3, 4 and 5 of the Act. Continuation of criminal proceedings against the petitioner/A1 certainly would amount to abuse of process of Court in view of principle enunciated in **R.P.Kapoor v. State of Punjab** and **State of Haryana v. Bhajanlal**.

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that it is a fit case to quash the proceedings against the petitioner/A1.

8. In the result, the Criminal Petition is allowed quashing the proceedings against the petitioner/A1 in C.C. No.1045 of 2014 on the file of III Metropolitan Magistrate, Cyberabad at
L.B. Nagar, Ranga Reddy District.

9. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 16th April, 2015.

lvd