

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.3503 of 2015

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ORDER:

This criminal petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioner/A3 in C.C. No.245 of 2015 on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri (Crime No.779 of 2014 of Kushaiguda Police Station), for the offences punishable under Sections 3, 4 and 5 of Immoral Traffic (Prevention) Act, 1956 (for short, the Act).

Heard the learned counsel for the petitioner and learned Public Prosecutor representing the State.

The facts leading to filing of the criminal petition briefly are as follows: On 22.10.2014 at 14.00 hours, the Sub-Inspector of Police, Kushaiguda P.S., raided House No.4, Bhavani Nagar, Kushaiguda, on receipt of information that some persons are running brothel house in the said premises. The Sub-Inspector apprehended organizers (A1 and A2), customer (petitioner/A3) and female sex worker (L.W.3). The Sub-Inspector recorded joint confessional statement of the organizers (A1 and A2) and seized cash of Rs.1,600/-, unused condoms and four cell phones in the presence of panchas. Basing on the panchanama, the Station House Officer, Kushaiguda Police Station registered a case in Crime No.779 of 2014 under Sections 3, 4 and 5 of the Act. After completion of investigation, the Investigating Officer filed the charge sheet.

The crucial question that falls for consideration is whether the proceedings against the petitioner for the offences under Sections 3, 4 and 5 of the Act can be quashed.

It is not the case of prosecution that the petitioner is running a brothel house or procuring women for the purpose of prostitution or he has been living by earning money on prostitution. Even assuming that the petitioner went to the premises with an intention to satisfy his sexual lust, such act of the petitioner will not fall within the ambit of Sections 3, 4 and 5 of the Act. None of these sections speak about punishment of a person, who is visiting the brothel house or any other place of similar nature, to satisfy his sexual lust. The alleged act of the petitioner will not fall

within the provisions of Sections 3, 4 and 5 of the Act; therefore the criminal proceedings against the petitioner are liable to be quashed. My view is fortified in **Goenka Sajan Kumar v State of Andhra Pradesh**, wherein it was held as follows:

5. None of these sections speak about punishment to the customer of a brothel house. Admittedly, the petitioner does not fall under the provisions of Sections 3 to 7 of the Act, as the petitioner was not running a brothel house nor did he allow his premises to be used as a brothel house. The petitioner is not alleged to be living on the earnings of prostitution. It is also not the case of the prosecution that the petitioner was procuring, inducing or enticing any person for the sake of prostitution nor is it the case of the prosecution that any person was earning on the premises where prostitution is carried out.

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 continuation of criminal proceedings against the petitioner would certainly amount to abuse of process of law.

In the result, the criminal petition is allowed, quashing the proceedings against the petitioner/A3 in C.C. No.245 of 2015 on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri. Miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 27th April, 2015.

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