

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.3423 of 2015

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ORDER:

This criminal petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioners/A3, A4 and A5 in C.C. No.568 of 2014 on the file of Special Judicial First Class Magistrate for Excise Cases, Erramanzil, Hyderabad (Crime No.503 of 2014 of Banjara Hills Police Station), registered for the offences punishable under Sections 3, 4, 5 and 7 of Immoral Traffic (Prevention) Act, 1956 (for short, the Act).

Heard the learned counsel for the petitioners and learned Public Prosecutor.

The facts leading to filing of the criminal petition briefly are as follows: On 17.5.2014 at 19.00 hours, the Inspector of Police, Commissioner's Task Force, West Zone, Hyderabad raided premises No.8-3-833/95, Plot No.95, Phase – III, Kamalapuri Colony, Banjara Hills, Hyderabad, on receipt of information that some persons are running brothel house in the said premises. The Inspector apprehended organizer (A1), five customers (A2 to A6) and three female sex workers. On enquiry, they revealed their names. The Inspector recorded confessional statement of the organizer (A1) and seized cash of Rs.89,000/-, condoms and cell phones in the presence of panchas. Basing on the panchanama, the Station House Officer, Banjara Hills Police Station registered a case in Crime No.503 of 2014 under Sections 3, 4, 5 and 7 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 petitioners for the offences under Sections 3, 4, 5 and 7 of the Act can be quashed.

It is not the case of prosecution that the petitioners are running a brothel house or procuring women for the purpose of prostitution or they have been living by earning money on prostitution. Even assuming that the petitioners went to the premises with an intention to satisfy their sexual lust, such act of the petitioners will not fall within the ambit of Sections 3, 4, 5 and 7 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 petitioners will not fall within the provisions of Sections 3, 4, 5 and 7 of the Act; therefore the criminal proceedings against the petitioners 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 petitioners would certainly amount to abuse of process of law.

In the result, the criminal petition is allowed, quashing the proceedings against the petitioners/A3, A4 and A5 in C.C. No.568 of 2014 on the file of Special Judicial First Class Magistrate for Excise Cases, Erramanzil, Hyderabad. Miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 24th April, 2015.

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