

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12608 of 2015

ORDER:

This criminal petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioners/A2 and A3 in C.C. No.911 of 2015 on the file of the court of XVI Metropolitan Magistrate, Cyberabad, Kukatpally.

2. Learned counsel for the petitioners submitted that even if the allegations made in the charge sheet are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioners. Learned Public Prosecutor submitted that there is *prima facie* case against the petitioners/A2 and A3.

3. The facts leading to filing of the criminal petition briefly are as follows: On 12.3.2009 at 1130 hours, the Inspector of Police, Kukatpally Police Station raided Flat G-3, Sri Krishna Enclave, Aruna Society, Kukatpally, Ranga Reddy District and found A2 to A4 and one female sex worker. On enquiry, A2 revealed that on their request, Pittu Gopal Reddy (A1) has sent the sex worker, to the Flat. The police seized cash of Rs.1,000/- from the sex worker. The Station House Officer, Kukatpally Police Station registered a case in Crime No.298 of 2009 under Sections 3, 4 and 5 and 6 of Immoral Traffic (Prevention) Act, 1956 (for short, the Act). After completion of investigation, the Investigating Officer laid charge sheet against the petitioner and others. The learned XVI Metropolitan Magistrate, Cyberabad, Kukatpally, after satisfying himself with the material placed before him, has taken cognizance of offences under the above referred sections, numbered the charge sheet as C.C. No.911 of 2015.

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

5. Even assuming that the petitioners brought the sex worker with an intention to satisfy their sexual lust, such act of the petitioners 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 enjoying with a sex worker. The alleged act of the petitioners will not fall within the provisions of Sections 3, 4 and 5 of the Act. My view is fortified in **Goenka Sajjan 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.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, continuation of criminal proceedings against the petitioners would certainly amount to abuse of process of law.

7. In the result, the criminal petition is allowed, quashing the proceedings against the petitioners/A2 and A3 in C.C. No.911 of 2015 on the file of XVI Metropolitan Magistrate, Cyderabad at Kukatpally. Miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

T.SUNIL CHOWDARY, J.

December 01, 2015.

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