

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12139 of 2015

ORDER:

This criminal petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioners/A3 and A4 in P.R.C. No.32 of 2015 on the file of the court of IX 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/A3 and A4.

3. The facts leading to filing of the criminal petition briefly are as follows: On 26.8.2012 at 1930 hours, the Sub-Inspector of Police, Kukatpally Police Station raided Sri Lakshminath Apartment, Sri Hari Nagar, Kukatpally and found A2 to A4 and two female sex workers. On enquiry, A2 revealed that one Prasad (A1) has been bringing the sex workers and he is running the brothel house in the Apartment, and A3 and A4 are the customers. The police seized cash of Rs.20,000/- and three cell phones. The Station House Officer, Kukatpally Police Station registered a case in Crime No.721 of 2012 under Sections 3, 4, 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 IX 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 P.R.C.No.32 of 2015.

4. The crucial question that falls for consideration is whether the proceedings against the petitioners for the offences under Sections 3, 4, 5 and 6 of the Act can be quashed.

5. 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 6 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 6 of the Act. My view is fortified in **Goenka**

Sajan Kumar v State of Andhra Pradesh^[1], 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/A3 and A4 in P.R.C. No.32 of 2015 on the file of IX Metropolitan Magistrate, Cyderabad at Kukatpally. Miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

T.SUNIL CHOWDARY, J.

November 20, 2015.

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[\[1\]](#) (2014) 2 ALD 264