

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.3476 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/A6 in P.R.C. No.3 of 2015 on the file of Judicial Magistrate of First Class—cum—Special Mobile Court, Ongole (Crime No.121 of 2015 of Ongole Taluk Police Station), for the offences punishable under Sections 4 and 5(1)(d)(i) of Immoral Traffic (Prevention) Act, 1956 (for short, the Act) and Section 366(A) IPC.

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: A1 and A3 to A6 are close friends and are working in granite factories. On 18.2.2015 having no work, they wanted to enjoy with liquor and ladies. They booked room Nos.302 and 303 in Venkata Sai Lodge, situated at 60 feet road, Ongole with Adhaar Card of A5. A5 contacted A2 and A7 and asked for ladies. A2 and A7 fixed the amount of Rs.1,000/- for each person. A2 and A7 went to the mother of L.W.3 and as she was not in the house, they brought L.W.3 (minor girl) to the lodge for the purpose of prostitution. First A5 had intercourse with A2 in room No.303 and after that A5 came out and A1 went into room No.303 to have intercourse with A2. A3 to A7 and L.W.3 were waiting in room No.302. At that time, the Inspector of Police, Ongole Taluk, raided the lodge, apprehended A1 to A7 and seized an amount of Rs.7,800/- and condom sachet under the cover of Police proceedings. The Inspector of Police registered a case in Crime No.121 of 2015 under Sections 4 and 5(1)(d)(i) of the Act and Section 366(A) IPC. 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 4 and 5(1)(d)(i) of the Act and Section 366(A) IPC 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 4 and 5 of the Act. It is not the case of the prosecution that the petitioner/A6 induced minor girl (L.W.3) for prostitution in order to attract Section 366(A) IPC. 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 4 and 5 of the Act or Section 366(A) IPC; 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 at the stage of admission, quashing the proceedings against the petitioner/A6 in P.R.C. No.3 of 2015 on the file of Judicial Magistrate of First Class–cum–Special Mobile Court, Ongole. Miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 29th April, 2015.

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