

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 602 OF 2015**

1. Sudha Krushna Reddy,
Age 45 years, Occ. Maid;

2. Mohammed Naim @
Munna Abdul Sattar Ansari,
Age 36 years, Occ. Service,
Both residing at House No. 787,
2nd Floor, R. S. Nimkar Marg,
Mumbai (At present lodged at
Arthur Road Central Prison)

...Applicants
(Org. Accused Nos. 1 & 3)

Versus

The State of Maharashtra,
(At the instance of Nagpada
Police Station vide LAC No.
4878 of 2008)

...Respondent

Mr. Prabhanjay R. Dave for the Applicants

Mr. A. S. Shitole, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 29th JULY, 2016

ORAL ORDER :

1. Heard learned Counsel for the applicants and the learned A.P.P.

2. Vide the judgment and order dated 7th September, 2011 passed by the Metropolitan Magistrate, Special Court for ITPA, 54th Court at Mazgaon, Mumbai in CC No. 779/PW/2008, the applicants have been convicted and sentenced as under :

1	For the offence punishable u/s 3(1) of ITPA	To suffer RI for 1 year each, and to pay fine of Rs. 2,000/- each, in default, to suffer SI for 1 month, each.
2	For the offence punishable u/s 4(2)(a) of ITPA	To suffer imprisonment for 6 months, each, and to pay fine of Rs. 1,000/- each, in default, to suffer SI for 15 days.
3	For the offence punishable u/s 7(1)(b) of the ITPA	To suffer SI for 1 month, each.
The said sentences of imprisonment were directed to run concurrently.		

Against the aforesaid judgment and order of conviction and sentence, the applicants preferred an appeal being Criminal Appeal No. 164 of 2011 in the Sessions Court, Mumbai. The learned Sessions Judge was pleased, vide judgment and order dated 15th September, 2015, to confirm the conviction and sentence awarded by the trial Court. Hence, this revision.

3. Mr. Dave, learned Counsel for the applicants assailed the

impugned judgment and order on several counts. He submitted that PW 1 (victim girl) was a tutored witness and had deposed at the instance of a lady officer of the Navjeevan Mahila Vastigruh, Chembur, where she was kept. He further submitted that no independent witness was examined in the present case to support the prosecution case; that no offence under Section 3 of the ITPA was made out; and there is nothing to show that the ACP was present at the time of the raid, as is the requirement.

4. Learned A.P.P opposed the application. He submitted that there is no illegality in the findings recorded by both, the trial Court as well as the Appellate Court. He submitted that all the grounds raised in this application have been considered by both the Courts. He further submitted that the applicant No. 1 has two antecedents, inasmuch as two cases have been registered against her.

5. Perused the papers. On 16th December, 2008, at about 9:30 p.m. a raid was conducted on house No. 785, 1st floor, R. S. Nimkar Marg, Kamathipura, Mumbai. It appears that the raid was headed by the Assistant Commissioner of Police, Tardeo Division, and that he along with

PI Bhawar and other police staff and two panchas were present when the raid was conducted. Ten girls sitting in a hall, wearing scanty clothes and make-up were found in the said raid. The applicants were also present at the spot. On inquiry, it transpired that the girls had indulged in prostitution and that the applicant No. 2 would bring customers to the brothel, which was being managed by the applicant No. 1 and was getting commission for the same. In the search, applicant No. 1 was found with Rs. 1200/-. After the raid and after preparation of the panchnama, the victim girls were rescued and taken for rehabilitation. API Arvind Chaudhari (PW 2) lodged a complaint with the Nagpada Police Station, pursuant to which, C.R. No. 4878 of 2008 came to be registered. Further investigation was carried out by PI Suresh Bhawar and after completion of investigation, charge-sheet was filed.

6. The applicants pleaded not guilty and claimed to be tried. The prosecution in support of its case examined four witnesses PW 1- the victim girl; PW 2 – the complainant; PW 3 – the panch to the seizure panchnama; PW 4 – the Investigating Officer.

7. After considering the evidence on record, the trial Court was pleased to convict and sentence the applicants as aforesaid, which conviction and sentence was confirmed by the Appellant Court.

8. The victim girl was examined as P.W.1. She has supported the prosecution case. There is nothing to doubt the credibility of the victim girl, who was examined as PW 1. A stray admission which has come in the cross-examination of the said witness, cannot be relied upon to discard her evidence in toto, which otherwise appears to be truthful and credible. PW 1, in her evidence has specifically stated that the applicant No. 1 was the Manager and that the applicant No. 2 would procure clients. She has stated that the applicant No. 1 was collecting the income received from prostitution and that applicant No. 1 would retain half the amount and give half to the victim girls. The said evidence of PW 1-victim girl has been corroborated by PW 3- the panch witness.

9. The submissions advanced by the learned Counsel for the applicant that the Assistant Commissioner of Police was not present at the raid, is devoid of merit, in view of the evidence that has come on record,

more particularly, the evidence of PW 4, which goes to show that PW 4 was also a party to the raid. It is pertinent to note, that there is no cross-examination on the said point, with regard to the presence/absence of the Assistant Commissioner of Police.

10. The next submission advanced by the learned Counsel for the applicant is that Section 3 of the ITPA would not apply to the facts of the present case, is also devoid of merit, considering the evidence that has come on record, in particular, the evidence of PW 1 and other witnesses. The evidence of PW 1 clearly shows that the applicant No. 1 was the Manager and that applicant No. 2 was a pimp, who would bring customers to the brothel. Section 3(i) of the ITPA, applies to 'any person, who keeps or manages, or acts or assists in the keeping or management of, a brothel.....' and as such it cannot be said, that Section 3 would not apply to the applicants in the facts of the present case. There is no illegality or perversity in the impugned judgment and orders and hence, the revision application being devoid of merits, is dismissed.

REVATI MOHITE DERE, J.