

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.3204 of 2015

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ORDER:

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Aggrieved by the order dated 13.10.2015 passed in M.C.No.16 of 2015 on the file of the Sub-Divisional Magistrate, Visakhapatnam, wherein and whereunder an order under Section 18 read with Section 3 of the Immoral Traffic (Prevention) Act, 1956 (for short "the Act"), came to be passed attaching the premises i.e. Flat bearing No.401, Sai Pavan Estate, Sankaramatam Road, Madhuranagar, Visakhapatnam, the present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C.

A perusal of the material on record would show that a case in Crime No.170 of 2015 came to be registered against the petitioner herein, who is the owner of Flat No.401, Sai Pavan Estate, Sankaramatam Road, Madhuranagar, Visakhapatnam, for the offence punishable under Sections 3, 4 and 5 of the Act. The averments in the report show that prostitution was being carried on in the said premises by K.Sondu Siddardha, Sanjay Kumar and Sunkara Santosh at the time of raid. The said flat was let out on rent to the above said persons by the petitioner. In view of the fact that the said premises was used for illegal purpose, a notice under Section 18 and 20 read with 7 (1) of the Act was issued to show-cause as to why the above premises should not be attached and why he should not be evicted from the premises. A reply came to be issued by the petitioner stating that one Sunkara Santosh approached him stating that he is working as vehicle recovery finance manager and requested to let out the Flat No.401 which is

vacant. Believing the representation made, the petitioner let out the premises to Sunkara Santosh without verifying and enquiring the details of the tenants. Subsequently, on 18.04.2015 the police issued a notice stating the said premises was used for immoral purpose. A notarised affidavit came to be filed by the petitioner stating that he is not aware about the illegal activities committed by the tenants until it was noticed by the police and everything done was not his knowledge. Basing on these allegations the property was attached by the trial Court. Aggrieved by the same, the present revision is filed.

Learned counsel for the petitioner mainly submits that the petitioner is un-aware about the illegal activities being carried on in the flat and order of attachment is illegal.

Learned Additional Public Prosecutor though opposes but submits that the petitioner has no knowledge about the said activities.

Proviso to Section 18 (1) of the Act states that if the magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein.

In view of the representation made by the learned Additional Public Prosecutor that the petitioner is un-aware about the improper use of the flat and having regard to the explanation given by the petitioner, his request can be considered.

Accordingly, the Criminal Revision Case is allowed, the order under challenge is set aside and the property shall be handed over to the petitioner in terms of Section 18 of the Act. Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

16.03.2016

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