

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.5016 OF 2016

ORDER:

1. This petition is filed by the petitioner-accused No.2 under Section 482 Cr.P.C. seeking to quash the proceedings against him in C.C.No.413 of 2015 on the file of the II Additional Judicial First Class Magistrate, Tanuku, West Godavari District.
2. Heard and perused the material available on record.
3. It is alleged that the police caught A1 and A2 and the rescued woman-L.W.4 at the brothel den run by A1 in his house. It is alleged that A2 paid money to A1 for the purpose of prostitution with the said rescued woman-L.W.4. Thus, A1 and A2 committed the offence punishable under Sections 3, 4, 5 and 7 of Immoral Traffic (Prevention) Act, 1956.
4. The learned Counsel for the petitioner submitted that even if it is assumed that the allegations made against the petitioner are true, no offence is made out against the petitioner in view of the fact that the petitioner is a customer and he is not living on the earnings on the 'prostitution' of any other person.
5. Section 3 of the Act deals with punishment for keeping a brothel or allowing premises to be used as a brothel. Section 4 of the Act speaks about the punishment for living on the earnings of prostitution. Section 5 of the Act prescribes punishment for causing or inducing a person to carry on prostitution. Section 7 of the Act speaks about a person, who carries on prostitution and the person with whom such prostitution is carried on in any premises.
6. Mere perusal of the above provisions would clearly establish that a person who involves himself with intent to satisfy his sexual urge cannot be prosecuted under the provisions of the Act. In the instant

case, even according to the prosecution, the petitioner is a customer. Therefore, the contention raised by the learned Counsel for the petitioner can be accepted.

7. In the above circumstances, this Court is of the view that ingredients of Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act are not made out against the petitioner and therefore, the continuation of the proceedings against the petitioner in C.C.No.413 of 2015 on the file of the II Additional Judicial First Class Magistrate, Tanuku, amounts to abuse of process of Court.

8. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner-A2 alone in C.C.No.413 of 2015 on the file of the II Additional Judicial First Class Magistrate, Tanuku, West Godavari District. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Date : 12.4.2016

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DATED 12.4.2016

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