

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.639 of 2017

ORDER:

The present petition is filed by Accused No.3 in Crime No.438 of 2014 of Chikkadapally Police Station, Hyderabad, which was subsequently numbered as PRC.No.20 of 2015 on the file of Special Judicial First Class Magistrate, Excise Court at Erramanzil, Hyderabad, seeking to quash the proceedings against him in the said PRC. The petitioner is alleged to have committed the offences punishable under Sections 3,4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and the learned Magistrate has taken cognizance under Section 370 (A) of IPC and registered the case as the aforesaid PRC.

Sri S.Lokeshwar Reddy, learned counsel for the petitioner, submits that the petitioner has to be construed as a customer and he is projected as a customer in the charge sheet filed by the concerned Investigating Officer. Learned counsel further submits that when Accused No.4, who also stands on the same footing as that of the petitioner, approached this Court by filing Criminal Petition No.15863 of 2014 under Section 482 of the Code requesting the identical relief of quashment of proceedings against him in the same crime, this Court, by order dated 23.12.2014, acceded to the request of Accused No.4 by elaborately dealing with the fact-situation and relying on the

decision in **Goenka Sajan Kumar v. State of Andhra Pradesh**¹ and, therefore, seeks to quash the proceedings against the petitioner in the aforesaid PRC.

Learned Additional Public Prosecutor, while submitting that the present crime is numbered as PRC.No.20 of 2015, does not dispute the status of the petitioner or the petitioner standing in an identical footing as that of Accused No.4 and this Court quashing the proceedings against Accused No.4 in the present crime.

A perusal of the charge sheet would show that when the concerned police conducted raid, the petitioner and Accused No.4, who were customers, were caught red-handed, whereas Accused No.1 was an organizer and Accused No.2 used to procure the customers and identical offences have been levelled against them. This Court, in Criminal Petition No.15863 of 2014, referred to above, observed thus:

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

Even as per the case of the prosecution, 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 3, 4 and 5 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. In that view of the matter, the criminal

¹ (2014) 2 ALD 264

proceedings against the petitioner are liable to be quashed.

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 in dicing 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, continuation of criminal proceedings against the petitioner would certainly amount to abuse of process of law.

In the result, the Criminal Petition is allowed, quashing the proceedings against the petitioner/A4 in Crime No.438 of 2014 of Chikkadapally Police Station, Hyderabad. Miscellaneous Petitions, if any, pending in the criminal petition shall stand closed.”

In view of the above, there is nothing further more required to probe into, as the petitioner is also standing on an identical footing as that of Accused No.4. The only change in the present case being that the petitioner is now seeking to quash the proceedings against him in PRC, whereas in Criminal Petition No.15863 of 2014, Accused No.4 sought to quash the proceedings against him in Crime No.438 of 2014. The law declared in **Goenka**’s case aptly attracts the case of the

petitioner even and, therefore, the request of the petitioner can be acceded to.

Accordingly, the Criminal Petition is allowed, quashing the proceedings against the petitioner/Accused No.3 in PRC.No.20 of 2015 on the file of the Special Judicial First Class Magistrate, Excise Court at Erramanzil, Hyderabad.

Miscellaneous Petitions, if any, pending in this petition, shall stand closed.

A. SHANKAR NARAYANA, J

January 30, 2017.
v v

