

Vidya Amin.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2121 OF 2016

Huzefa Akbarali Rasikwala & Anr.	...	Petitioners
VS.		
The State of Maharashtra	...	Respondent

WRIT PETITION NO. 2130 OF 2016

Jyoti Rajesh Dhumir	...	Petitioner
VS.		
The State of Maharashtra	...	Respondent

WRIT PETITION NO. 2152 OF 2016

Mohammed Salim Shaikh	...	Petitioner
VS.		
The State of Maharashtra	...	Respondent

WRIT PETITION NO. 2153 OF 2016

Arvind Vitthal Bodke	...	Petitioner
VS.		
The State of Maharashtra	...	Respondent

WRIT PETITION NO. 2168 OF 2016

Shamsher Abdul Sayed Khan	...	Petitioner
VS.		
The State of Maharashtra	...	Respondent

WRIT PETITION NO. 2460 OF 2016

Jayashree Kishor Sharma & Anr.	...	Petitioners
VS.		
The State of Maharashtra	...	Respondent

Mr. M.S. Mohite a/w. Suraj P. Nangre i/b. Sayaji D. Nangre,
Advocate for the petitioner in WP/2121/2016.

Mr. Prabhanjay R. Dave, Advocate for the petitioners in WP/2130/2016, WP/2152/2016, WP/2153/2016, WP/2168/2016 and WP/2460/2016.

Mr. A.R. Patil, APP for the respondent-State.

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: 8th October, 2018

P.C. :

1. Rule. Rule made returnable forthwith. By consent, all the Petitions are heard together and decided finally at the stage of admission.

2. In all these six Writ Petitions, the petitioners have challenged the order dated 12th April, 2016 passed by the learned Metropolitan Magistrate, Special Court for PITA, Mazgaon, Mumbai directing that the premises, i.e., brothel at Kalpana Cooperative Housing Society, 2nd Pasta Lane, Colaba, Mumbai is to be attached under section 18(2) of Immoral Traffic (Prevention) Act.

3. Pursuant to the information received by the police, the police have raided the premises, i.e., different tenements in Kalpana Housing Society on 10th March, 2007. They registered offence and prosecuted the accused in C.C. No.309/PW/2008 for the offences punishable under sections 3, 4, 5 and 7(1)(b) of the

Immoral Traffick (Prevention) Act and also under section 341 and 342 r/w. 34 of Indian Penal Code. The learned Metropolitan Magistrate, Special Court for PITA convicted the accused persons for the said offences by the judgment and order dated 12th April, 2016. As the accused persons were convicted, the learned Metropolitan Magistrate in operative clause No. xii of the said order, gave following directions to the police:

(xii) The brothel at Kalpana Co-op. Housing Society, 2nd floor, 2nd Pasta Lane, Colaba, Mumbai, where raid was effected, stands attached under section 18(2) of I.T.P. Act, for a period of one year from the date of its actual attachment and closure of brothel, for its improper use and the convict, any other occupier or any other person in-charge of the room stand evicted from the above said premises.”

4. All the petitioners, except petitioner Jayashree Kishor Sharma in Writ Petition no. 2460 of 2016, were not accused but they were the bonafide purchasers of the premises. The petitioner Jayashree Kishor Sharma in Writ Petition no. 2460 of 2016 was one of the accused. She had purchased the said tenement, i.e., room no. 17 on 19th August, 1985 and was in possession of the same.

5. The learned counsel for the petitioners have submitted that the petitioners challenged the judgment and order dated 12th April, 2016 by filing Writ Petitions. Meanwhile, the accused also have challenged the said judgment and order of conviction by filing Criminal Appeals, i.e., Criminal Appeal No. 558 of 2016 and Criminal Appeal No. 392 of 2016 in C.C. No. 309/PW/2008. The learned counsel for the petitioners have submitted that these two appeals against the judgment of conviction were heard and decided by judgment and order dated 9th April, 2018 passed by the Additional Sessions Judge, City Court and Sessions Court, Greater Bombay. The learned counsel submitted that both the Appeals were allowed and the judgment and order dated 12th April, 2016 passed by the learned Metropolitan Magistrate, Special Court for PITA is quashed and set aside. The learned counsel has further submitted that as the Appeals are allowed and the said judgment and order is quashed and set aside, nothing remains in these Writ Petitions. The learned counsel for the petitioners further pointed out that all the petitioners except petitioner Jayashree Sharma, have purchased their respective flats/tenements after 2007, i.e., after the raid was conducted.

6. The learned counsel Mr. Mohite for the petitioner in Writ Petition no. 2121 of 2016 has submitted that the petitioner has purchased the flat in 2014. The learned counsel Mr. Dave for the petitioners in WP/2130/2016, WP/2152/2016, WP/2153/2016, WP/2168/2016 and WP/2460/2016 has submitted that the petitioner have purchased the flats/tenements during 2013, 2014 and 2015, hence they have no connection with the commission of offence or any activity under PITA. It is further submitted that the premises/tenements were never attached, as the order dated 12th April, 2016 of the learned Metropolitan Magistrate was stayed by this Court on 27th June, 2018.

7. Learned APP confirms the submissions made by the learned counsel for the petitioners and has submitted that nothing remains in these Writ Petitions.

8. Perused the order of acquittal of the accused dated 9th April, 2018 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Greater Bombay in Criminal Appeal No. 558 of 2016 and Criminal Appeal No. 392 of 2016. As the main

accused are acquitted and the judgment and order passed by the learned Metropolitan Magistrate is quashed and set aside, the order dated 12th April, 2016 passed in operative clause (xii) automatically goes. Hence, nothing remains in these Writ Petitions.

9. In Writ Petition No. 2121 of 2016, rule is made absolute in terms of prayer clause (b). In WP/2130/2016, WP/2152/2016, WP/2153/2016, WP/2168/2016 and WP/2460/2016, rule is made absolute in terms of prayer clause (a).

(MRIDULA BHATKAR, J.)