

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

CRIMINAL WRIT PETITION NO. 2882 OF 2018

Zunubegum Mustakin Khan & Anr. ... Petitioners
Vs.
The State of Maharashtra ... Respondent
...
Mr. Ateet Shirodkar for the Petitioner.
Mr. A.R.Patil, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 3rd AUGUST, 2018.

P.C.

1. The petitioners are aggrieved by order dated 8th June, 2018 passed by the Additional Sessions Judge, Greater Bombay in Criminal Appeal No.259 of 2018, thereby dismissing the said appeal and confirming the order 12th April, 2018 passed by the Metropolitan Magistrate, 15th Court, Mazgaon (at Sewree), Mumbai in PITA R.A. No.05/RA/2018.

2. The petitioners are victims in proceeding viz. R.A. No.05/RA/2018 in C.R. No. 16 of 2018 registered with Nagpada Police Station. The petitioner No.1 is the originally from Assam and the Petitioner No.2 from Andhra Pradesh. According to the petitioner No.1, she is residing at Mumbai since last seven years alongwith her husband who claimed her custody and petitioner

No.2 came to Mumbai on 22nd February, 2018. She is having two children. Custody of the petitioner No.2 is claimed by her sister.

3. Trial Court had heard and inquired with the victims as per the requirement of Section 17 of Immoral Traffic (Prevention) Act, 1956. The applications preferred by the petitioners were rejected by the trial Court. The appeal preferred by the petitioners was also rejected.

4. It is submitted that the petitioner No.1 is resident of Mumbai since last seven years. They are the victims of the circumstances and belongs to lower strata of society. Petitioner No.2 is having two children and there is nobody in her family to take care of them. The other victims were rescued in the raid were released. It is further submitted that the husband of petitioner No.1 and sister of petitioner No.2 were ready to give undertaking that they will not indulge in similar act in future. It is further submitted that they are in detention since last four months.

5. On the other hand, learned APP submitted that there is no reason to disturb the impugned order. The Court has noted that the petitioners were found involved in the alleged act on the second occasion and taking into consideration the said fact the impugned orders were passed.

6. On perusal of order dated 12th April, 2018, it is apparent that the trial Court had assigned reasons for passing the impugned orders. As far as petitioner No.1 is concerned, it is observed that Probation Officer has given report that victim is originally from Assam and she is residing in Mumbai since last seven years. On earlier occasion also the petitioner was rescued in PITA case. The court also noted that the statement of the victim made during the course of inquiry wherein she stated that she is from Assam, Guhati and presently she is residing at Chembur Mumbai. She admitted that she was rescued earlier in similar activity. She admitted that she is having three children and she visited the place of offence to collect the amount belong to her and at that time she was apprehended by the police. The trial Court formed the opinion that the victim is mature enough to consider that the activity in which she found to be involved is not respectful for her life. She intends to live smooth life. The trial Court also considered the police report and come to the conclusion that she may be kept in local protection home Assam for protection, vocational training, rehabilitation training for one year. The trial Court also took into consideration the report submitted by NGO. The Court also noted that the petitioner No.2 was also found in

similar activity on the earlier occasion. The Court took into consideration the report of the Probation Officer as well as NGO and after inquiry with the with the victim formed an opinion that she should be kept Prajjawala Home, Andhra Pradesh for protection, vocational training, rehabilitation training for one year.

7. The appeal preferred by the petitioners was also dismissed by the Sessions Court. The Sessions Court had observed that petitioner No.1 is pregnant, there is facility in every rehabilitation home for care and protection of pregnant women. The observations made by the trial Court are justifiable. The petitioner requires counseling and rehabilitation for better upliftment of life.

8. On perusal of the said orders, I do not find any infirmity and there is no reason to set aside the said order. The trial Court after conducting the inquiry, the report of the Probation Officer and the report of NGO, has passed the impugned orders in the interest of the petitioners. In the circumstances, there is no reason to disturb the findings of the Courts below and to set aside the said order. Hence, petition stands dismissed.

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Kuttan Nair
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(PRAKASH D. NAIK, J.)