

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.09.2018

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI
CRL RC No.954 of 2018

Kadher Gani

...Petitioner

Vs.

The State Represented by
The Inspector of Police
AVS, Chintadripet
Chennai 600 002.

...Respondent

PRAYER: Criminal Revision petition has been filed under Sections 397 and 402 of the Code of Criminal Procedure, praying for setting aside the petition which was filed before the IV Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.1326 of 2018 in AVS Cr.No.80 of 2018 of the Petitioner in accordance with law.

For Petitioner : Mr.M.J.Nissar Ahmed

For Respondent : S.Thankira,
Government Advocate

O R D E R

The Revision petitioner has filed this criminal revision petition challenging the order dated 01.08.2018, wherein, the IV Metropolitan Magistrate, Saidapet, Chennai, has rejected the Petition filed under Section 451 Cr.P.C.

2.The brief facts of the case is that the petitioner is the owner of the Zam Zam Guest House, situated at No.19, Subathral Street, Triplicane, Chennai 600 005.

3. When the respondent police raided the Room No.204, at Zam Zam Guest House, Triplicane, they found they have arrested two accused persons and secured two victim girls. Hence, the respondent police locked the room and took away the room key and the same was handed over before the IV Metropolitan Magistrate, Saidapet, Chennai.

4.Thereafter, the petitioner has filed a Petition under Section 451 of Cr.P.C. in Crl.M.P.No.1326 of 2018, to return the Room key to the hotel. The same was dismissed, against which, the present Criminal Revision is preferred.

5.The learned counsel appearing for the Revision petitioner would submit that the accused person booked a Room in their

hotel and the hotel management after following norms prescribed by the law enforcing agency, allotted Room No.204 to the accused person.

6. When the investigation was conducted, the petitioner was also cooperating with the police officials to do their duty when they secured the victim girls from the room. The Trial Court has failed to consider all these facts and dismissed the petition filed by the petitioner under Section 451 of Cr.P.C.

7. The learned Government Advocate appearing for the State would submit that when the respondent police raided the room, they have arrested two accused persons and could secure two victim girls. Hence, an F.I.R. was registered by the respondent police for the offences under Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to I.T.P. Act).

8. The petitioner is the owner of the Zam Zam Hotel at Triplicane, he was not arrayed as accused in the said Crime. However, the room was locked for investigation, even after investigation, the room is still locked without any valid reason. Hence, the petitioner was constrained to file a petition under Section 451 Cr.P.C., for return of the Room Key.

9. The Trial Court dismissed the petition filed by the petitioner on the ground that the respondent police have secured two victim girls. Thus, the respondent police has registered a case under Section 3(2)(a), 4(1) and 5(1)(a) I.T.P. Act. The Investigation Officer secured the victims from the said Room No.204 along with some incriminating materials and seized the Room Key which was used by the accused persons and the same was sent to the Court Vide B.No.677 of 2018. The learned Magistrate relied upon Section 18 of I.T.P. Act., authorised the Law Enforcing Agency for the closure of place meant for brothel and for eviction of offenders from the premises.

10. Further, it is averred in the impugned order that after the completion of investigation, the role of the accused and other persons will be concluded, hence, the Trial Court dismissed the petition filed for return of the Room Key.

11. In the present case, there is no dispute in the allotment of Room, wherein the hotel norms were followed, Section 18 of I.T.P. Act authorises the law enforcing agency if the particular place is used for brothel. However, in the present case, the petitioner has not arrayed as accused in the said crime and there is no allegation that the building is used for brothel. If the place is not used for brothel, the said act does not prohibit handing over the key in favour of the petitioner unless and otherwise the petitioner himself authorises the prostitution, when the petitioner particularly in the business of hotel.

12. Unless the law enforcing agency establishes with materials that the petitioner is involved in the business of

Immoral activities in the hotel, the declining of return of Room Key is unsustainable.

13. Accordingly, this Criminal Revision is allowed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The IV Metropolitan Magistrate,
Saidapet, Chennai.

2. The Inspector of Police,
AVS, Chintadripet, Chennai -02.

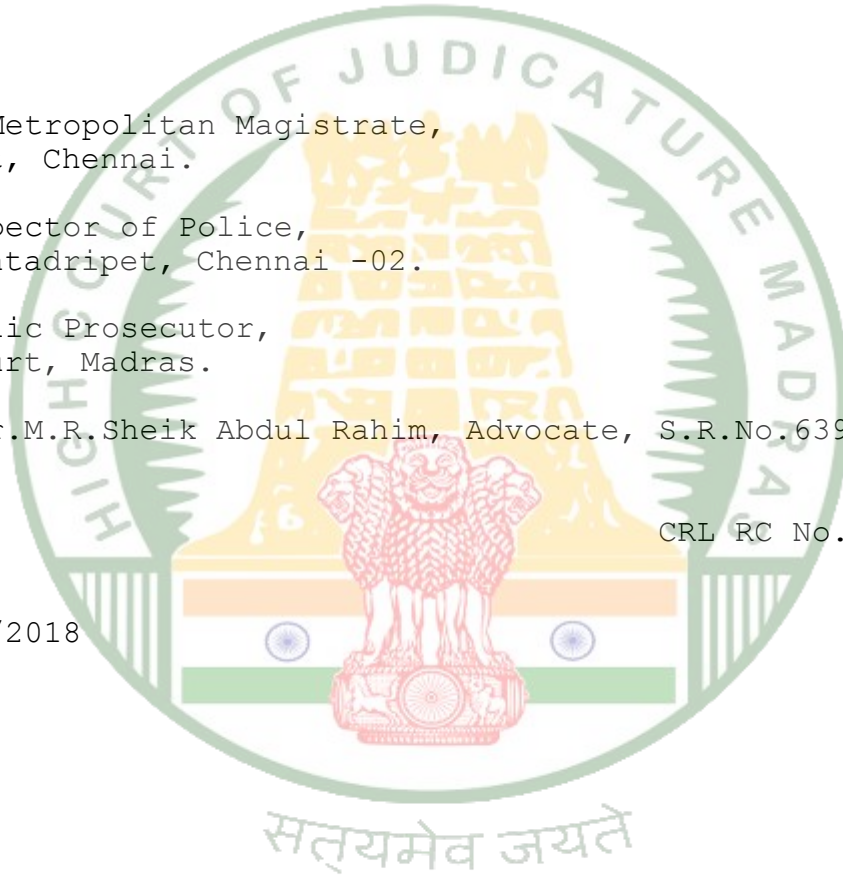
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. M. R. Sheik Abdul Rahim, Advocate, S.R.No.63924

CRL RC No.954 of 2018

NMI (CO)

rrs 04/10/2018



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