



Bail Slip

The Petitioner/Accused viz., Terrence Gooding, S/o.Glat in CC.No.827 of 2011 on the file of the IV M.M.Saidapet, Was directed to be released on bail as per order of this Court, dated 17/09/2013 made in MP.No.1/2013 in Crl.RC.No.1129/2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1129 of 2013

Terrence Gooding

... Petitioner

Vs.

The State rep. by
The Inspector of Police
Anti Vice Squad
Chennai - 600 002.

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 and 401 Cr.P.C. to set aside the Judgment passed by the Hon'ble II Additional Sessions Judge, Chennai in C.A.No.187 of 2012 dated 22.08.2013 by confirming the Judgment dated 17.09.2012 made in C.C.No.827 of 2011 on the file of the learned IV M.M. Saidapet, Chennai - 600 015, convicting the petitioner to undergo imprisonment for one year on each count to run concurrently and imposing a fine of Rs.1,000/- for each count, for alleged offences under Section 3(2)(a), 4(1) & 5(1)(a) of Immoral Trafficking Prevention Act.

For Petitioner :Mr.K.Kannan

For Respondent :Mr.R.Ravichandran
Government Advocate (Crl. Side)

ORDER

The Criminal Revision Case has been filed by the revision petitioner to set aside the Judgment passed by the Hon'ble II Additional Sessions Judge, Chennai in C.A.No.187 of 2012 dated 22.08.2013 by confirming the Judgment dated 17.09.2012 made in C.C.No.827 of 2011 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai - 600 015, convicting the petitioner to undergo imprisonment for one year on each count to run concurrently and imposing a fine of Rs.1,000/- for each count, for alleged offences under Section 3(2)(a), 4(1) & 5(1)(a) of immoral Trafficking Prevention Act.



2. It is the case of the prosecution that:

(i) On 24.05.2010, when the P.W.1 Head Constable Mr.Manickavasagam, while he was in surveillance in a civil dress, for prevention of Immoral Traffic at Thiru. Vi.Ka.Bus stop, at about 11.30 am, the revision petitioner came to the P.W.1 by riding a Kinetic Honda Motor Cycle bearing registration No.TN 05 7499 and introduced himself, that he is canvassing for brothel and he procured one young lady from Mumbai. Further he stated that he kept the young lady in the house No.4/16, Balaraman Street, Thiru.Vi.Ka.Nagar.

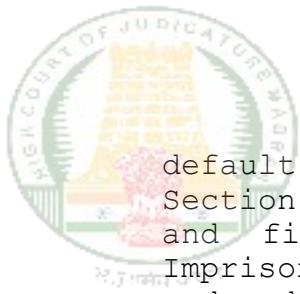
(ii) The revision petitioner brought the P.W.1 to the said house and bargained the rate. Revision petitioner shown the young lady to the P.W.1 and after seeing the young lady, P.W.1 informed to the revision petitioner that he will arrange the demanded sum of Rs.3,000/- and soon will return back to that house. Immediately, the P.W.1 Head Constable Mr.Manickavasagam went to the Police Station and informed to the Inspector of Police, Anti Vise Squad and submitted a special report.

(iii) On the basis of the report, the Inspector of Police registered a case in Crime No.48 of 2010 under Sections 3(2) (a), 4(1), 5(1)(a) of ITP Act, further he instructed the P.W.1 and the Woman Constable to proceed the said house with a sum of Rs.3,000/-. As per the instruction, the P.W.1 went to the house and paid the money to the revision petitioner. When the revision petitioner attempted to receive the money, the Inspector of Police rushed to the house and arrested the revision petitioner and secured the victim lady.

(iv) Confession statement given by the revision petitioner in the presence of witnesses was recorded. After completion of investigation, the Inspector of Police submitted his final report against the revision petitioner for the offences punishable under Sections 3(2)(a), 4(1), 5(1)(a) of ITP Act.

3. The charge sheet was taken on file of the learned IV Metropolitan Magistrate, Chennai, in C.C.No.827 of 2011, further the petitioner was furnished with the copies, under Section 207 of Cr.P.C. The revision petitioner pleaded not guilty and denied the charges framed against him.

4. In order to prove the case of the prosecution as many as 4 witnesses P.W's.1 to 4 were examined, 5 documents Exs.P.1 to 5 and 4 material objects M.O's.1 to 4 were marked. After conducting the trial, the learned IV Metropolitan Magistrate, Chennai, came to the conclusion that the revision petitioner is found guilty under Sections 3(2)(a), 4(1), 5(1)(a) of ITP Act, convicted and sentenced him to undergo one year Rigorous Imprisonment and fine of Rs.1,000/- in default three months Simple Imprisonment for the offence under Section 3(2)(a), and one year Rigorous Imprisonment and fine of Rs.1,000/- in



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default three months Simple Imprisonment for the offence under Section 4(1) of ITP Act and three years Rigorous Imprisonment and fine of Rs.1,000/- in default three months Simple Imprisonment for the offence under Section 5(1)(a) of IPT Act, and ordered the period of conviction shall run concurrently.

5. Aggrieved against the Judgment of the learned IV Metropolitan Magistrate, Chennai, in C.C.No.827 of 2011 dated 17.09.2012, the revision petitioner preferred the Criminal Appeal in C.A.No.187 of 2012, before the learned II Additional Sessions Judge, Chennai. After hearing the rival submissions made on either side, the learned II Additional Sessions Judge, Chennai, dismissed the appeal and confirmed the conviction and sentence passed by the learned IV Metropolitan Magistrate, Chennai, in C.C.No.827 of 2011 dated 17.09.2012.

6. Against the Judgment in C.A.No.187 of 2012 dated 22.08.2013, the appellant therein is before this Court, with this Criminal Revision Case.

7. The learned counsel for the revision petitioner would submit that there are contradictions in the statement of P.W.1; the P.W.1 ought not to have gone to his police station, which is situated 20 kms away from the place of occurrence. So no attempt was made by P.W.1 to inform about the scene of occurrence to the Inspector of Police, which is nearer to the place of occurrence. Evidence of P.W.1 is unreliable. No independent witness was examined even though it is admitted that other people are living in other portions of the building. Recovery witness also not examined. No prudent man could approach any unknown person for sexual indulgence, owner of the building has stated that he never seen the revision petitioner. All the evidences adduced by the prosecution are unbelievable. Therefore, the revision petitioner is entitled for acquittal.

8. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that P.W.1 to P.W.4 were examined before the trial Court. Admittedly, no independent witness was examined by the prosecution. Normally the cases like this public as well as neighbour of the house would not come forward to stand as witness. But for the reason alone it cannot be stated not that the entire case of prosecution is either false or registered for statistical purpose. If it is true what are other actions taken by the petitioner against the erred police officers. No steps was taken by the revision petitioner. P.W.1, who was working as a Head Constable, while he was in surveillance, in a civil dress, for prevention of Immoral Traffic, on the instruction of the Inspector of Police, the revision petitioner approached P.W.1. Since, he has to identify the house for brothel and also victim lady he has not immediately either contacted the Inspector of Police or straightaway go to his Police Station.



There is no perversity in the Judgment of the Courts below.

9. Heard both sides and perused the documents available on record.

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10. Admittedly, the revision petitioner is a married man. The Probationary Officer conducted enquiry, as per the orders of learned Magistrate and on the application of restoration of victim lady, it reveals that the victim lady is a widow, having girl baby aged about 4 years. She is not the wife of the petitioner. Therefore, the victim lady, aged about 22 years rescued from the house alongwith the petitioner, clearly shows that the petitioner has used the house for brothel. The owner of the building deposed that he has let his house for residential purpose to the revision petitioner and he is residing at Tirupathi after retired from ICF, Chennai. He identified the petitioner to whom he let out the said house. The revision petitioner also not denied the arrest at the house. Once recovery is proved, secured the victim lady from the said house and arrested the petitioner from the said house. The petitioner has not proved the relationship between the petitioner and victim lady. It is for the petitioner to say that how she came to the house.

11. Even though, there are some minor contradictions in the statement of witnesses, the same are not material contradictions, which will not affect the entire prosecution case. From the evidences of P.Ws.1 to 4, prosecution has established its case beyond any reasonable doubt. Further on a perusal of the Judgment of both the Courts below, there is no perversity. It is a well settled proposition of law and the revision Court need not sit in the arm chair of the appellate Court and re-appreciate the entire evidences. Both the Courts below have given cogent reason for conviction and sentence of the revision petitioner and on going through entire materials on records, this Court does not find any perversity in the Judgment passed by the learned II Additional Sessions Judge, Chennai in C.A.No.187 of 2012 dated 22.08.2013.

12. Accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

1. The II Additional Sessions Judge
Chennai.

2. The Metropolitan Magistrate,
Chennai

3. The Chief Metropolitan Magistrate, Chennai

4. The Public Prosecutor
Madras High Court.

5. The Inspector of Police
Anti Vice Squad
Chennai - 600 002.

+lcc to MR.K.Kannan, Advocate SR.NO.670021

sm:22.11.2018

Cr1.RC.No.1129 of 2013