

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1175 of 2018

Indira

... Petitioner/Accused

Vs.

State by

The Inspector of Police,

Anti Vise Squad Wing

Chindadripet, Chennai-600 002.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 r/w 401 of the Criminal Procedure Code, praying for setting aside the order passed by the learned IV Metropolitan Magistrate, Saidapet in Crl.M.P.No.1585 of 2018 on 27.09.2018 and to pass an order directing the respondent to return the key of the premises Door No.8/22, First Floor, 2nd Street, H-Block, Annanagar, Chennai-600 102, to the petitioner.

For Petitioner : Mr.J.N.Naresh Kumar

For Respondent : Mrs.S.Thankira
Government Advocate

O R D E R

The Revision Petitioner has filed this criminal revision, challenging the order dated 27.09.2018, wherein the IV Metropolitan Magistrate, Saidapet, Chennai-15, has rejected the petition filed under Section 451 Cr.P.C.,

2.The brief facts of the case is that the petitioner being the owner of the premises, had given her property for rent under the maintenance of one M.A.Selvam, who is none other than son-in-law of the petitioner. It is further stated that the said Selvam rented out the premises to one A.Venkatesan, to run a Saloon under the name and style of Ocean Day Spa through a rental agreement dated 20.04.2018. The said Venkatesan handed over the same to one Suresh as his mother suffering with Cancer.

3. When the respondent Police raided the said premises on 06.05.2018, they found two victim girls and the respondent Police arrested the A2 viz., Suresh and the victim girls and locked the said premises and took away the key and the same was handed over before the IV Metropolitan Magistrate Court, Saidapet, Chennai.

4. Thereafter, the petitioner has filed a petition under Section 451 Cr.P.C., in Cr.M.P.No.1585 of 2018, to return the key to the petitioner he being owner of the premises. The same was dismissed on 27.09.2018 by the lower Court, against which, the present Criminal Revision is preferred.

5. The learned counsel appearing for the Revision Petitioner would submit that the petitioner is aged about 80 years and she requested her son-in-law, to take care of the alleged premises and collect monthly rent from the premises and further stated that her family fully depending upon the rental income to mete out her day-to-day expenses. The learned counsel would further submit that if the key of the premises was kept without using, the said premises could not be used for any purpose resulting in huge loss to the petitioner.

6. When the investigation was conducted, the petitioner was also co-operating with the police officials to do their duty when they secured the victim girls from the premises. The trial Court has failed to consider all these facts and rejected 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 premises, they could secure two girls and arrested A2 and A1 is still absconding. Hence, a case was registered in Cr.No.79 of 2018 by the respondent Police for the offence punishable under Sections 3(2)(a), 4(a) and 5(1)(a) of Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to I.T.P.Act).

8. The learned counsel for the petitioner would submit that the petitioner was not arrayed as accused in the said crime. However, the premises was locked for investigation even after investigation, the premises is still locked without any valid reason. Hence, the petitioner being owner of the premises, was constrained to file a petition under Section 451 of Cr.P.C. for return of key. The trial Court has dismissed the petition filed by the petitioner.

9. Thus, the respondent Police has registered a case under Sections 3(2)(a), 4(1), 5(1) of I.T.P.Act. The Investigating Officer secured the victim girls and A2 from the premises along

with some incriminating materials and seized Samsung Cell Phone and key of the above Spa which was used by the accused persons and the same was assigned as B.No.661 of 2018 by the IV Metropolitan Magistrate Court, Saidapet, Chennai. The learned Magistrate, relied upon Section 18 of I.T.P.Act., authorized 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 main accused i.e. A1 has not been secured till date, hence, the trial Court dismissed the petition filed for return of key. It is also averred that 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 premises is used for brothel. If the place is not used for brothel, the said act does not prohibit to handover the key in favour of the petitioner. Unless the law enforcing agency establishes with materials that the petitioner is involved in the business of Immoral activities in the alleged premises. Hence, the rejection of return of key is unsustainable.

11.Accordingly, this Criminal Revision is allowed and the respondent Police is directed to return the key of the premises at Door No.8/22, First Floor, 2nd Street, H-Block, Annanagar, Chennai-600 102, to the petitioner.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The IV Metropolitan Magistrate,
Saidapet, Chennai - 15.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

3.The Inspector of Police,
Antivise squad wing,
Chindaripet,
Chennai - 2.

+1cc to Mr.J.N.Naresh Kumar, Advocate, S.R.No. 74666

Cr1.R.C.No.1175 of 2018

VBA (CO)
GN (30/11/2018)



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