



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.01.2018

Delivered on : 09.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.7307 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

Rathinasekar

... Petitioner/Accused No.2

Vs.

The State Rep. by
The Inspector of Police,
T.V.M.C.H. Police Station,
Tirunelveli.
(Crime No.461/2012)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the case in C.C.No.92 of 2013 on the file of the Judicial Magistrate Court No.I, Tirunelveli and quash the same.

For Petitioner : Mr.R.Anand

For Respondent : Mr.A.Robinson
Government Advocate
(Criminal side)

ORDER

The petitioner herein is the second accused in C.C.No.92 of 2013 on the file of the Judicial Magistrate Court No.I, Tirunelveli.

2.The present petition has been filed to quash the charge sheet in the above said case.

3.In the charge sheet, it is alleged that on 25.09.2012, at 14.00 hours, in Door No.44, Shanthi Bhavanam, Rail Nagar, High Ground, Palayamkottai, the petitioner along with one Mallika was running a brothel house by using one Kavitha, Selvi and Seethalakshmi and thereby, the respondent police laid a charge sheet against the petitioner for the offences under Sections 3(2)(A), 4(1) and 5(1)(d) of the Immoral Traffic (Prevention) Act, 1956.



4. On a careful reading of the charge sheet laid by the respondent police reveals that in order to substantiate the charges mentioned in the charge sheet, he cited 8 witnesses to speak about the alleged offence.

5. On this occasion, this petition has been filed by the petitioner based on the following grounds:

'1. In fact prior to the occurrence, there was a strong motive existed between the petitioner and the respondent since the petitioner has not stopped his vehicle when it was waylaid by the respondent during vehicle check up. However, later on, when the petitioner was apprehended at the check post, he ensued quarrel with the respondent, as a result of which, intentionally he was roped into the present case.

2. In order to attract Section 3(2)(A) of the abovesaid Act, it is incumbent on the part of the prosecution to prove that the accused concern is either a tenant, landlord, lessee, occupant or portion in charge of the premises which is said to have been used for the purpose of prostitution, one cannot be held responsible for the said charge. In the present case, none of the witness would speak that the petitioner herein would come within the ambit of holding the said status.

3. As far as Sections 4(1) and 5(1)(d) of the abovesaid Act are concerned, as the prosecution has miserably failed to put forth its case through valid record that a prostitution was taken place on the date of occurrence, the abovesaid penal provisions cannot have any lets to start.'

6. Now, on going through the grounds submitted by the petitioner, no doubt, all the allegations raised only based on the evidence. The learned counsel appearing for the petitioner did not indicate any illegality committed in the process of investigation by the respondent. Furthermore, he does not say anything about the abuse of process of law with regard to the charge sheet filed by the respondent. If really the petitioner and the respondent police are having previous enmity, the same should be elicited only through oral evidence. Further, in order to prove the tenancy or other relationship between the landlord and the first accused in this case, only evidence alone can prove whether the alleged building is used for running a brothel or not. But, the petitioner herein straightaway approached this Court for quashing the entire



charge sheet without any valid ground. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.I,
Tirunelveli.
- 2.The Inspector of Police,
T.V.M.C.H. Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD)No.7307 of 2013
09.02.2018

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AM/SKN RSK/SAR 2/19.02.2018/3P/4C