

HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CRIMINAL REVISION CASE No.2010 OF 2006

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner-A.1 seeking to set aside the conviction recorded against her under Section 248(2) Cr.P.C. for the offence under Section 3 of the Immoral Traffic (Prevention) Act and the sentence of rigorous imprisonment for a period of one year and to pay fine of Rs.500/-, in default, to undergo simple imprisonment for a period of one month, *vide* judgment dated 28.07.2006 passed in C.C. No.1284 of 2002 on the file of the I Additional Chief Metropolitan Magistrate, Vijayawada (for short, 'the trial Court'). The trial Court also convicted A.6 while acquitting A.3 to A.5 of the said offence. The said conviction and sentence recorded against the petitioner-A.1 by the trial Court was confirmed by the learned Metropolitan Sessions Judge, Vijayawada (for short, 'the Sessions Judge') in Criminal Appeal No.141 of 2006 on 06.11.2006.

2. Heard the learned counsel for the petitioner-A.1, learned Assistant Public Prosecutor representing the respondent-State, apart from perusing the material on record.

3. Learned counsel for the petitioner-A.1 would submit that P.W.1-decoy witness did not support the case of the prosecution; P.Ws.2 and 3 are the interested witnesses; both the Courts below have not acted upon the evidence of P.Ws.1 to 3; the other accused A.2 to A.5 were acquitted in this case; both the Courts below did not appreciate the evidence on record and erroneously found the petitioner-A.1 guilty for the offence under Section 3 of the Immoral Traffic (Prevention) Act; and ultimately, prayed to set aside the judgments of both the Courts below.

4. On the other hand, learned Assistant Public Prosecutor supported the findings recorded by both the Courts below and prayed to dismiss the Criminal Revision Case.

5. In view of the contentions raised on behalf of both sides, the point for determination is, whether the conviction and sentence recorded against the petitioner-A.1 for the offence under Section 3 of the Immoral Traffic (Prevention) Act are liable to be set aside?

6. Revisional jurisdiction of this Court under Sections 397 and 401 Cr.P.C. is a truncated one. Unless the findings are based upon no evidence or perverse, or that inadmissible evidence was taken into consideration in convicting the accused or that admissible evidence was overlooked, normally the revisional powers cannot be exercised to disturb the concurrent findings of the two Courts below. To know whether the findings are based on proper appreciation of the evidence on record, it is necessary to look into the evidence on record.

7. To prove the guilt of the petitioner-A.1, the prosecution examined P.Ws.1 to 3 and got marked Ex.P.1-Statement of P.W.1 recorded under Section 161 Cr.P.C., Ex.P.2-mediators report dated 26.09.2002 by P.W.2, Ex.P.3-mediators report dated 26.09.2002 by P.W.2 and Ex.P.4-F.I.R. and also got marked M.Os.1 and 2 two fifty rupees notes and no witness was examined on behalf of the accused.

8. As per the prosecution case, P.W.1-Gurrula Raju is a decoy witness and having come to know on reliable information with regard to prostitution that is being conducted at the house of A.1, a raid was conducted by the police and P.W.1 and A.2 were found in a room. There is confession of P.W.1 that the A.1 was running a brothel house and the A.1 was also found at the scene when a raid was conducted by the police

on 26.09.2002. Under a cover of mediator panchanama dated 26.09.2002, M.Os.1 and 2 fifty rupee notes were seized by the investigating officer. P.W.2 is an eyewitness to the finding of P.W.1 and A.2 in a room. A.2 absconded and proceedings against A.2 were stopped under Section 258 Cr.P.C. by the trial Court. The petitioner-A.1 was found in the scene of offence and the scene of offence (house) belonged to her. Both the Courts below have rightly appreciated the entire legal evidence on record and convicted and sentenced the petitioner-A.1 for the offence under Section 3 of the Immoral Traffic (Prevention) Act, 1956. The evidence of P.Ws.1 to 3 establishes all the ingredients of Section 3 of the Immoral Traffic (Prevention) Act, 1956 against A.1. All contentions raised on behalf of the petitioner-A.1 do not merit consideration. There is no miscarriage of justice. Under these circumstances, the Criminal Revision Case is devoid of merit and it is liable to be dismissed.

9. In the result, the conviction and sentence recorded against the petitioner-A.1 for the offence under Section 3 of the Immoral Traffic (Prevention) Act, 1956, by the trial Court *vide* judgment dated 28.07.2006 in C.C. No.1284 of 2002, which was confirmed by the learned Sessions Judge on 06.11.2006 in CrI.A. No.141 of 2006, are confirmed. The trial Court shall take appropriate steps against the petitioner-A.1 to implement the impugned judgment.

10. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 27-04-2018

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