



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)Nos.13575 & 18829 of 2016

and

Cr1 MP(MD)Nos.6341 & 9389 of 2016

WEB COPY

Cr1 OP(MD)No.13575 of 2016 :

1.Athimoolakrishnan

2.Thangamani

... Petitioners / Accused Nos.5 & 6

Vs.

The State, rep.by
The Inspector of Police,
Alwarkurichi Police Station,
Alwarkurichi,
Tirunelveli District.
(Crime No.107 of 2015)

...1st respondent/complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C No.268 of 2015 on the file of the Judicial Magistrate, Ambasamudram, Tirunelveli District and to quash the same.

Cr1 OP(MD)No.18829 of 2016 :

Seyadhu Mohammed

... Petitioner / Accused No.1

Vs.

The State, rep.by
The Inspector of Police,
Alwarkurichi Police Station,
Alwarkurichi,
Tirunelveli District.
(Crime No.107 of 2015)

... Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C No.268 of 2015 on the file of the Judicial Magistrate, Ambasamudram, Tirunelveli District and to quash the same.



In both cases :

For Petitioners

: Mr.J.Ashok

For Respondents

: Mr.A.Robinson,
Government Advocate (crl.side)

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COMMON ORDER

The petitioners herein are facing trial in CC No.268 of 2015 on the file of the Judicial Magistrate, Ambasamudram, Tirunelveli District for the offences under Sections 3(1) 4(2) (C) 5, 6 (a) & (b), 7 of Immoral Traffic (Prevention) Act, 1956. The petitioner in Cr1 OP(MD)No.18829 of 2016 is figuring as A1 while the petitioners in the other O.P are figuring as A5 and A6. To quash the same, these original petitions have been filed.

2.Heard the learned counsel on either side.

3.Crime No.107 of 2015 was registered on the file of the Alwarkurichi Police Station on 24.04.2015. The defacto complainant is the Circle Inspector of Police. The matter was investigated and final report was filed and cognizance of the offences was taken by the jurisdictional magistrate. The prosecution proposed to rely on the statements recorded under Section 161 of Cr.Pc given by as many as 12 witnesses. Out of them, LW.1 is the Sub Inspector of Police, Kadayam Police Station. LW.2 is the Sub Inspector of Police, Alwarkurichi Police Station. LW.3 and 4 are the Special Sub Inspectors of Alwarkurichi and Kadayam Police Station respectively. LW.5 is the Woman Police Constable. LW.12 is the informant/defacto complainant. These witness were only the members of the raiding party. LW.6 to L.W.11 do state that the house belonging to the first accused was used as a brothel home.

4.It is not in dispute that the petitioner/Seyadhu Mohammed is the owner of the brothel home in question. But then, as being the owner of the premises, Seyadhu Mohammed can be made liable only if he had allowed the same to be used as a brothel home or that he had wilfully permitted the home for prostitution.

5.On going through the statements of the list witnesses, there is no material to indicate that A1 has deliberately allowed the said home to be used as a brothel. Since there is no material against the first accused and the elementary ingredients of the offences in question are not present in this case, I have no hesitation to quash the impugned proceedings as far as he is concerned. Accordingly, the impugned proceedings stands quashed as far as the first accused is concerned. Cr1 OP(MD)No.18829 of 2016 stands allowed.

6.The case of the Accused Nos.5 and 6 stands on an interesting footing. The FIR is to the effect that when the raiding party



arrived at the brothel home, they saw the two men adjusting their dresses and that they ran away and escaped on a two wheeler.

7. On carefully going through the statements of the relevant witnesses, I have no hesitation to come to the conclusion that the version projected by the prosecution is inherently improbable. On this ground, I quash the impugned proceedings as regards A5 and A6. Accordingly, Cr1 OP(MD)No.13575 of 2016 stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)

Skm

To

1. The Judicial Magistrate,
Ambasamudram, Tirunelveli District.
2. The Inspector of Police,
Alwarkurichi Police Station, Alwarkurichi,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Cr1 OP(MD)Nos.13575 & 18829 of 2016
10.12.2019

PM(CO)

TR(12.06.2020) 3P 4C