

30.09.2021

Ct No. 35

D/L 219

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C.R.R. 1785 of 2021
(Via Video Conference)

Re: An application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973.

In re : **Sharad Agarwalla & Anr.**

... Petitioners

Mr. Arik Banerjee,
Mr. Arpit Agarwal,
Mr. Brijendra Pratap Singh.

... for the petitioners

Mrs. Anusuya Sinha,
Mr. Pinak Kr. Mitra.

... for the State

It appears that the key of the premises at the ground floor (Southern Corner), 52 B, Kali Temple Road, Kolkata – 700026, was seized by the investigating agency in connection with a case under Sections 3/4/5/7/18 of the Immoral Traffic (Prevention) Act, 1956, read with Section 120B of the Indian Penal Code, 1860.

The charge sheet has been filed in this case. The owner of the premises filed an application before the Learned Magistrate in the Court below for return of the key. A report was called for from the investigating agency. By filing a report, the investigating agency raised no objection with regard to the return of the said key.

The learned Chief Judicial Magistrate, Alipore, allowed the prayer of the petitioner by the order impugned dated March 18, 2021 on the following conditions:-

“ 1. That the petitioners shall furnish a bond of Rs.75,00,000/- (Rupees Seventy Five Lakhs Only).

2. That before returning the key of the said premises, the photographs of the said premises shall be taken and kept in the case diary.

3. The owner Sharad Agarwal director of M/s. Dov Tradecom (P) Limited shall give an undertaking that the impugned premises shall never be used or let out for any immoral purpose.

4. That the owner shall further give an undertaking with an affidavit that the impugned premises shall not be leased out or otherwise given possession of, to or for the benefit of the accused person.

5. That the I.O/I.C, Kalighat Police Station shall report before this court by the 15th of every succeeding month that the premisee is not used for any immoral purpose, and for that the owner of the premises shall render all necessary help to the I.O/I.C, Kalighat Police Station till further orders.”

It has been submitted by Mr. Arik Banerjee, learned advocate for the petitioner that the imposition of condition no.1 was beyond the scope of Section 18 of the Immoral Traffic (Prevention) Act, 1956. He further submits that there has been no allegation against the petitioner. The petitioner has not been charge sheeted. The premises in question was given to the accused persons on leave and license basis and the licence has been terminated long ago.

I find substance in the submissions advanced by Mr. Banerjee that the condition no. 1 was dehors the provisions of Section 18 of the Immoral Traffic (Prevention) Act, 1956 and I also find that the condition no. 3 is also unnecessary since it is no one's case that the premises in question was given on leave and license basis to the accused persons knowingly that the same would be used for immoral purpose.

In that view of the matter, the order impugned dated March 18, 2021 is modified by expunging the condition nos. 1 and 3 of the said order passed by the learned Magistrate in the Court below.

With the above observations, the revisional application being **C.R.R. 1785 of 2021** is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Kausik Chanda, J.)