



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Cr1.O.P.No.11311 of 2015

and C.M.P. Nos.1 & 2 of 2015

1. Siddique S/o.Mohamed Yusuf

2. Zakir Hussain S/o.Mohamed Haneefa

...Petitioners/Accused 2&3

Vs.

State by Inspector of Police
Vridhachalam Police Station
Vridhachalam
Cuddalore District
(Crime No.302 of 2014)

... Respondent/Complainer

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.103 of 2014 on the file of the learned Judicial Magistrate Vridhachalam and quash the same.

For Petitioners : Mr.A.Vijayasankar

For Respondent : Mr.E.Rajthilak
Counsel for the Government

O R D E R

This Criminal Original petition has been filed seeking to quash the proceedings in C.C.No.103 of 2014 pending on the file of the learned Judicial Magistrate Vridhachalam and to quash the same insofar as the petitioners are concerned.

2. The case of the petitioners is that a charge sheet has been filed against the petitioners for offences punishable under Sections 3(2)(a), 4(1), 5 (1)(a) of Immoral Traffic Offenders Act. The petitioners have been arraigned as accused Nos.2 and 3 respectively in the above said case. According to the prosecution, it is alleged that on 21.6.2014 at about 4.00 pm., the first accused induced the witness Mohan by stating that he



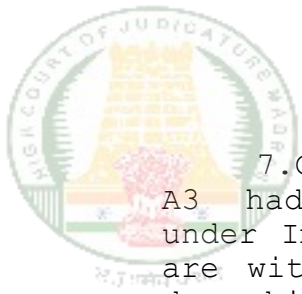
is having girl for prostitution and that he took the witness to the lodge of the 3rd accused and the 1st accused introduced to the Manager of the said lodge namely, the 2nd accused stating that the witness was taken by the 2nd accused to the victim by name Gloris who was staying in Room No.601 in the said lodge. The investigation was completed by the respondent police and a charge sheet had been filed against the petitioners herein for the offences punishable under Sections 3(2)(a), 4(1) of the Immoral Traffic Offenders Act and the same is taken on file in C.C.No.103 of 2014 on the file of the learned Judicial Magistrate No.I, Vridhachalam. In view of the above filing of CC. No.103 of 2014 against the petitioners, the petitioners have filed this Criminal Original Petition to call for the records as the entire prosecution insofar as the petitioners are concerned is absolutely, illegal, contrary to the materials on record and liable to be quashed.

3.The learned counsel for the petitioners submitted that the proceedings in C.C.No.103 of 2014 on the file of the learned Judicial Magistrate No.I, Vridhachalam are arbitrarily being maintained and the same is liable to be quashed for the reason that no prima facie case has been made out against the accused/petitioners herein for the offences punishable under Sections 3(2)(a), 4(1), 5(1)(a) of Immoral Traffic Offenders Act, which is alleged to have been committed by the petitioners herein.

4. He further submitted that the charge sheet relied upon for the purpose of committing the petitioners/accused is without any admissible evidence and the witnesses who have supported the case does not connect the petitioners with the crime and therefore the proceedings before the Court below is liable to be quashed.

5. He further submitted that the respondent has only relied upon the confession of the co-accused for the purpose of charging the petitioners for the offences alleged. The respondent has also relied upon the statement of one Gloris who is neither the accused nor the witness. Further it has been submitted that a person cannot be charged for the offences only relying upon the evidence of the co-accused which is inadmissible. In this case, except the co-accused statement, no other material was produced connecting the petitioners with the crime.

6.He further submitted that the witnesses do not directly connect the accused and they only give a hearsay version and there is no direct material to connect the petitioners with the crime. Further, the case is squarely covered by the Judgment of the Hon'ble Supreme Court in Bhajanlal's case.



7. On a perusal of the records, it is clear that the A-2 and A3 had colluded with A1 for committing the act of prostitution under Immoral Traffic Offenders Act. It is also seen that there are witnesses available to narrate the facts happened on that day which shows that the prima facie case is made out against the petitioners and it is clear that there is no question of law involved in this case and it is only a matter of fact that it cannot be gone into by this Court sans either by conducting an enquiry or Trial. That being the case, this Court is not inclined to accept the version of the petitioner's counsel as no case is made out in support of the petitioners herein who are the accused Nos.2 and 3 in the proceedings in C.C. No.103 of 2014 and hence, this Criminal Original Petition is liable to be dismissed.

8. In view of the above, the Criminal Original Petition stands dismissed. However, the Trial Court is directed to proceed further in this case as expeditiously as possible. Consequently, connected Miscellaneous Petitions Nos.1 and 2 of 2015 are closed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. Judicial Magistrate Vridhachalam
2. The Inspector of Police
Vridhachalam Police Station
Vridhachalam
Cuddalore District
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.A.Vijayasankar, Advocate, S.R.No.31610

CrI.O.P.No.11311 of 2015
and C.M.P. Nos.1 & 2 of 2015

SSD(CO)
CT(11/08/2021)
(16/08/2021)