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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14358 of 2021
and
Crl.M.P.No.7829 & 7912 of 201

K.Pushba

... Petitioner

Versus

The State Represented by
The Inspector of Police,
C - 2, Hasthampatty Police Station,
Salem City,
Salem District.
(Ref Crime No.396/2018 dated 07.10.2018)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records and quash the proceedings pending in STC No.5253/2019 on the file of the Additional Mahila Court (Magisterial Level) at Salem taken on file for an offence under section 8(b) of Immoral Traffic (Prevention) Act, 1956.

For Petitioner : Mr. C.Arunkumar.
for Mr. J. Kather Hussain

For Respondent : Mr.A.Damodharan,
Government Advocate (Crl.side)

ORDER

This petition has been filed to quash the proceedings in STC No.5253 of 2019, which is pending, on the file of the Additional Mahila Court (Magisterial Level), Salem.

2. The petitioner is A2 in STC No.5253 of 2019 and she is facing trial for offence under Section 8(b) of Immoral Traffic (Prevention) Act, 1956. The contention of the petitioner is that taking the final report as a whole and going through the statement of the witnesses and materials, the offence under Section 8(b) of the Act is not prima facie made out and further, as the requirement of Sec.8(b) is that the offence should have



taken place in a public place. But, no public was examined as witness in this case. The learned counsel for the petitioner would further submit that the petitioner is running a licensed Spa centre. On the day of occurrence, the respondent police has come to her Spa Centre and conducted a raid and arrested the petitioner and another lady, namely LW.1. She has been shown as though they were soliciting prostitution in a public place in Rama Krishna Park, Hasthampatty, Salem. Hence, they were arrested and let out on station bail. The petitioner is hailing from a respectable family and her husband was working as a Surveyor and she has got grown up children. Due to the above stigma, she is unable to move freely. He would further submit that the lower Court had mechanically taken the case on file, without application of mind, as it could be seen from the cognizance order. He would also submit that though the case has been taken on file on 27.08.2019, till date, the trial could not be progressed for one reason or other and the petitioner is inducted in prostitution and ignominy. In any event, the case cannot end in conviction. Hence, prayed for quashing of the charge sheet.

3. The learned Government Advocate (crl. side) appearing for the respondent would submit that totally there are 3 accused in this case and the petitioner is arrayed as A2. The petitioner along with A1 and A3 had solicited prostitution. LW.1, victim girl was found near Ramakrishna Park, where she was induced to invite the public for prostitution along with one Pushpa by way of exhibiting their bodies. Thereafter, the petitioner as well as LW1 had dressed up in such a manner to attract the public, luring for immoral activity, thereby finding public prostituting in a public place.

4. He would further submit that the petitioner is now making a defence that she has been falsely implicated in this case. She had been arrested on 07.10.2018 and on the same day, she has been let out on station bail on 07.10.2018. Till this time, no such representation or grievance has been addressed by the petitioner and it is for the first time she makes such a defence. Further he would submit that in this case, there are only 7 witnesses. P.W.1, the victim girl, who is an independent person, has clearly stated the role played by the petitioner and other two accused persons. He would also submit that within a short period entire trial can be completed. The point raised by the petitioner are vital in nature, which have to be raised only during trial.

5. I have considered the rival submissions and perused the materials available on records carefully.

6. Considering the facts and circumstances of the case, this



Court finds that the points raised by the petitioners are to be raised during the time of trial and the prayer sought for by the petitioner is not sustainable at this stage and hence, this Court is not inclined to allow the petition.

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7. Accordingly, this Criminal Original Petition is dismissed. However, considering the fact that the case is of the year 2019, the Trial Court is directed to complete the trial within a period of 3 months, which is only an outer limit. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Additional Mahila Court (Magisterial level),
Salem.
- 2.The Inspector of Police,
C - 2, Hasthampatty Police Station,
Salem City,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Kather Hussain, Advocate Sr No.41580

CRL.O.P.No.14358 of 2021

PCH (CO)
PR (20/09/2021)