

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.199 OF 2022

Shivli Sheth	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Prabhanjay R. Dave, Advocate for applicant.

Mr.Arfan Sait, APP, for State.

Ms.Khadija Khan, sister of applicant, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th June 2022

PC :

1. The applicant in this application has challenged the order dated 5th October 2021 passed by the Court of Metropolitan Magistrate dated 5th October 2021 and order dated 25th February 2022 passed by Sessions Court, Mumbai.

2. On 15th September 2021 the officers attached to Nagpada Police Station raided the premises at Nagpada for investigation under Immoral Traffic (Prevention) Act ('PITA Act'). The applicant and another lady were rescued as victims. One of the accused was arrested. He was produced before concerned Court. The FIR was registered on 16th September 2021. Medical examination of the victims was conducted. Learned Magistrate conducted enquiry under provisions of PITA Act. The enquiry was conducted with applicant and other victim. By order dated 5th October 2021 learned Metropolitan Magistrate, 15th Court, Mazgaon, Mumbai, released victim no.2 on giving undertaking in prescribed Form I as per rules,

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by herself that she will not indulge in any immoral activities. The applicant was directed to be detained for a period of one year in Navjeevan Mahila Vasatigruha, Mumbai from the date of order for her care, protection, shelter and vocational training. After the detention period of victim is over, it was directed that her custody be given to her relatives by police escorts through NGO Save the Children India on giving undertaking by victim that she will not indulge herself in any immoral activities in prescribed Form I as per rules. The Court also noted that applicant is-victim was suffering from “Syphils”.

3. The aforesaid order was challenged before Sessions Court by preferring appeal. By order dated 25th February 2022 the appeal was dismissed.

4. Learned counsel for applicant submitted that other victim has been released. Only on the ground that applicant is suffering from disease, she is ordered to be detained at aforesaid Vasatigruha. The sister of the applicant who is present in the Court has filed an affidavit stating that they are residents of Madral, Post Gopalpur Bahirpur, South 24 Parganas, West Bengal. The applicant is released from jail. She would take her to West Bengal. The applicant has two children and mother who are residing at her native place. She has undertaken that after the release of applicant, she would personally take her to native place and hand over her custody to her family members for necessary medical treatment.

5. Learned APP submitted that learned Magistrate was constrained to pass order dated 5th October 2021 in the interest of

applicant and others. The Court has noted that applicant is suffering from disease. The applicant/victim has not filed any undertaking that she would not indulge in such activities in future and that she would stay at West Bengal along with her family at the address referred to hereinabove.

6. On perusal of order dated 5th October 2021 it is apparent that victim no.2 has been released by learned Magistrate, however, applicant was ordered to be detained at Navjeevan Mahila Vasatigruha, Mumbai for the period stipulated in the order primarily considering that applicant is suffering from disease. The applicant is major girl. The order dated 5th October 2021 also indicate that sister of applicant who has filed affidavit before this Court was present before Trial Court and she had moved application for release of victim. The Trial Court has also made enquiry with her while passing order dated 5th October 2021. In view of the aforesaid factual aspects, this application can be allowed.

ORDER

- (i) Order dated 5th October 2021 passed by Metropolitan Magistrate, 15th Court, Mazgaon (at Sewree), Mumbai in PITA R.A.No.1004/RA/2021 and order 25th February 2022 passed by Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay in Criminal Appeal No.362 of 2021 are set aside;
- (ii) The applicant is directed to be released. She is permitted to visit her native place at Madral, Post Gopalpur Bahirpur, South 24 Parganas, West Bengal and stay with her family;
- (iii) The sister of applicant who has filed affidavit in this Court, shall take the applicant to her native place;

- (iv) The applicant is directed to file an undertaking before the Court of learned Magistrate stating that she will not indulge in any immoral activities. The affidavit/undertaking be filed in prescribed Form I as per rules;
- (v) Navjeevan Mahila Vasatigruha, Mumbai shall permit the applicant to execute and tender such undertaking before Trial Court;
- (vi) Any person from Navjeevan Mahila Vasatigruha shall accompany the applicant for executing such undertaking and submitting it before 15th Metropolitan Magistrate, at Sewree, Mumbai;
- (vii) After execution of such undertaking, the applicant be released;
- (viii) Criminal Revision Application is disposed of.

(PRAKASH D. NAIK, J.)

MST