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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13/06/2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.1404 OF 2022

Pradap Chandar

... Petitioner/8th Accused

Vs

1. The State
rep. By The Inspector of Police
Namakkal Police Station
Namakkal.
2. C. Veludevan
Inspector of Police
Namakkal Police Station
Namakkal

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records related to the FIR in Crime No.1605 of 2021 dated 2/9/2021 registered by the first respondent and quash the same.

For Petitioner ... Mr.N.Manoj Kumar
for M/s.K.V.Law Firm

For respondents ... Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report registered in Crime No.1605 of 2021, dated 2/9/2021, registered by the first respondent Police, for the offences punishable under Sections 3 (1), 4 (1) and 5 (1) (d) of the Immoral Traffic (Prevention) Act, 1956.



2. Heard Mr.N.Manojkumar, learned counsel for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the respondents.

3. The allegation against the petitioner is that when the police party headed by the Inspector of Police raided a Spa centre, the petitioner was also present along with the sex workers and he was apprehended and arrayed as A.8.

4. Learned counsel appearing for the petitioner submitted that even if the entire allegations are taken together, it would not attract any offence. He further submitted that doing sex work is not illegal, when the sex workers are engaged in prostitution on their own volition and not due to any inducement, force or coercion and, therefore, such acts are not liable for prosecution under Section 370 of the Indian Penal Code.

5. Learned Additional Public Prosecutor submitted that the petitioner was under custody for a period of 21 days and he is a regular customer of the said Spa centre.

6. Suo Motu, the first respondent Police filed the First Information Report and the same would indicate that the petitioner was present while sex workers were in the said Spa centre.

7. In this backdrop, the decision of the Hon'ble Apex Court in BUDHADEV KARMASKAR Vs. THE STATE OF WEST BENGAL & ORS (2022 Live Law (SC) 525), assumes significance, wherein, the Hon'ble Apex Court has held that whenever any brothel is raided, sex workers should not be arrested or penalised or harassed or victimised and it is only the running of the brothel, which is unlawful.

8. The petitioner cannot be fastened with any penal consequence and further, the act of the petitioner also cannot be said to be an act of pressurising the sex workers to commit acts, which they were not interested. From the aforesaid decision, any sex worker, being an adult and indulging in sexual act with his/her own consent, the police authorities should refrain from taking action against such individuals. From the facts, as is evident from the FIR, there is no whisper about any coercion on the sex workers to commit the act, more so from the petitioner. That being the case, the petitioner not being alleged to be a person coercing the sex worker to commit the sexual act, continuing the First Information Report against this petitioner is nothing but a futile exercise and would serve no purpose.



9. For the reasons aforesaid, this Criminal Original Petition is allowed and Crime No.1605 of 2021, pending on the file of the Inspector of Police, Namakkal Police Station, insofar as the petitioner, who is arrayed as A-8 is quashed. Consequently, connected Crl.M.P.No.554 of 2022 is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Inspector of Police
Namakkal Police Station
Namakkal.
2. The Public Prosecutor
Madras High Court
Chennai.

+1cc to M/s.K.V.Law Firm, Advocate, S.R.No.34621

Crl.O.P.No.1404 of 2022

GJ(CO)
RLP(23/06/2022)