



WEB COPY



Crl.O.P.No.24981 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.24981 of 2022

and

Crl.M.P.Nos.15602 & 15603 of 2022

Arun Kumar

... Petitioner

Vs.

State rep by Inspector of Police,
Ranipet Police Station,
Ranipet District.
(Crime No.1016 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the case in C.C.No.61 of 2020 pending on the file of the learned District Munsif cum Judicial Magistrate, Ranipet, Ranipet District and quash all further proceedings.

For Petitioner : Mr.M.Kumar

For Respondent : Mr.S.Santhosh ,
Government Advocate (crl.side)

ORDER

This Criminal Original petition has been filed to quash the proceedings in C.C.No.61 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Ranipet, Ranipet District.

2.The learned Counsel appearing for the petitioner submitted that the



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petitioner was arrested by the respondent police on 18.06.2020 at about 13.00hrs, while they were raiding the Stark Residency near Ammur Railway Station. The allegation against the petitioner is that he involved in prostitution with one prostitute Manjula. Therefore, the petitioner has been prosecuted for having committed offence punishable under Section 4(1) and 7(1) (a) of Immoral Traffic (prevention) Act, 1956. The ingredients of an offence punishable under Section 4(1) of the Immoral Traffic (prevention) Act, 1956 has not been made out against this petitioner since the petitioner is not living with the prostitute or habitually in the company of any prostitute. In the absence of petitioner being a tout or pimp on behalf of prostitute, either 4[2](c) will not attract. Hence, the present petition has been filed.

3.The learned Government Advocate (crl.side) appearing for the respondent submitted that the petitioner was arrested on 18.06.2020 and he has been prosecuted for the offence having committed under Section 4(1) and 7(1) (a) of Immoral Traffic (prevention) Act, 1956.

4.I have considered the matter in the light of the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent police.

5. A perusal of records reveals that the petitioner was arrested on



18.06.2020 at about 13.00 hrs and the petitioner was prosecuted for having committed offence punishable under Section 4(1) and 7(1) (a) of Immoral Traffic (prevention) Act, 1956. The alleged charges against the petitioner are runs as follows:

(i) Section 4 of Immoral Traffic (prevention) Act, 1956:

“4.Punishment for living on the earnings of prostitution-(1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of (any other person) shall be punishable with imprisonment for a term which may extent to two years, or with fine which may extent to one thousand rupees, or with both (and where such earning relate to the prostitution of a child or a minor, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years.

(2) where any person over the age of eighteen years is proved-

(a) to be living with, or to be habitually in the company of, a prostitute; or

(b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling his prostitution; or

(c) to be acting as a tout or pimp on behalf of prostitute, it shall be presumed, until the contrary is



proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of Sub-Section (1)”

(ii) Section 7(1)(a) of Immoral Traffic (prevention) Act, 1956 :

“7.Prostitution in or in the vicinity of public places-(1) Any Person who carries on prostitution and the person with whom such prostitution is carried on, in any premises,

(a) which are within the area or areas, notified under Sub Section (3)”

....

(1-A) Where an offence committed under Sub Section (1) is in respect of a child or minor, the person committing the offence shall be punishable with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:”

6. Reading of the above said provisions shows that if the person is living with or habitually in the company of prostitute and if the offence committed under Section 7 (1) is in respect of a child or minor, can be prosecuted under section 4(1) and 7(1) (a) of Immoral Traffic (prevention) Act, 1956. In the present case, there is no allegation against the petitioner as if the petitioner is



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living with or habitually in the company of prostitute and there is no allegation against the petitioner as if the petitioner has committed the offence in respect of child or minor.

7. Under these circumstances, continuing the prosecution against the petitioner would amount to abuse of process of law. Hence, the case in C.C.No.61 of 2020 is liable to be quashed. Accordingly, this Criminal Original Petition stands allowed and the case in C.C.No.61 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Ranipet, Ranipet District is hereby quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

14.10.2022

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

shk

V.SIVAGNANAM, J.



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To

1. The learned District Munsif cum Judicial Magistrate, Ranipet,
Ranipet District
2. The Inspector of Police,
Ranipet Police Station,
Ranipet District.
3. The Public Prosecutor,
High Court of Madras.

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