

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-36732-2019

Date of decision: March 04, 2022

Pardeep Singh and others

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bhisham Kumar, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of the FIR No.1115 dated 3.10.2017 under Sections 3, 4 5, 7 of the Immoral Traffic (Prevention) Act, 1956 and Section 370 IPC, registered at Police Station Faridabad Central, District Faridabad and the subsequent proceedings arising therefrom.

Counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of Inspector Indu Bala, it is stated that while on patrol duty, a secret information was received that Pawan Malik, owner of Mainhattan Mall is running the business of prostitution in the name of 'Kanchan Kaya Spa Massage Centre' and in the same Mall, Rajesh Sharma also running the same business in the name of 'Mosco Uni Sex Spa' and if a raid is conducted, boys and girls can be recovered from the same. On receiving the said information, search warrant was taken and a raiding

party was prepared. One Head Constable Yashpal was sent as a decoy customer by giving him two notes of Rs.2000/- each by marking them. After reaching at the spot, when he gave a signal, a raid was conducted on 'Kanchan Kaya Spa Centre' and from the girl, sitting on the counter, who disclosed her name Prachi, Rs. 6,800/- were recovered. One boy and two girls were found in an objectionable condition. The boy told his name Gajender Singh, i.e. petitioner No.3. Similarly, the girls also disclosed their names (names not disclosed in the order). In the second cabin, petitioner No.2-Bobby was found with another girl in an objectionable condition. Similarly, when 'Masco Uni Sex Spa' was raided, a person, named, Rajiv was found on the counter and Rs.6,500/- were recovered. When checked a cabin near the counter, a boy and three girls were found in objectionable condition. On asking, the boy told his name Pardeep, i.e. petitioner No.1. Thereafter, all of them were arrested and the FIR was registered.

Counsel for the petitioner submits that report under Section 173 Cr.P.C. was, later on, submitted and from a bare perusal of the same, no offence is made out against the petitioners.

Counsel for the petitioners has referred to the judgment of this Court in 2019 (1) Law Herald 752, titled as Teena and another Vs. State of Punjab and others, wherein it is held that the prostitution of one own's body and in the absence of any allegation that the accused is living on the earning of some other person's prostitution, is not a crime under Section 3 of the Immoral Traffic Act, 1956.

However, the said judgment is not applicable to the present case as it is the case, as set up in the FIR, all the three petitioners were found in an objectionable condition with girls when the raid was conducted and the amount was accepted by the owners of the centres from the decoy customers.

After hearing the counsel for the petitioner and also in view of the fact that the case is fixed for prosecution evidence, the Court is of the view that the plea raised by the petitioners are based on the facts alone, which cannot be appreciated in proceedings under Section 482 Cr.P.C., the present petition is dismissed.

March 04, 2022
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No