

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL PETITION NO: 11109 OF 2015

Between:

A. Sheshgiri Rao, S/o. Sri Nageswar Rao Aged 31 years, Occ: Employee Near
Mefail Resturant, Dattanagar Narayanaguda, Hyderabad

...PETITIONER/ACCUSED

AND

THE STATE OF TELANGANA., REP., PP, High Court at Hyderabad

...RESPONDENT/COMPLAINANT

Petition under Section 482 of Cr.P.C., praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to set aside the judgement and acquit the petitioner even under Section 7 of Immoral Traffic (Prevention).

I.A. NO: 1 OF 2015 (CRLPMP. NO: 11178 OF 2015)

Petition under Section 482 of Cr.P.C., praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to pass an order or order to suspend the execution of sentence and release the petitioner on bail.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri K.B. RAMANNA DORA, Advocate for the Petitioner and the Public Prosecutor (TG), on behalf of the Respondent

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL

CRIMINAL PETITION No.11109 OF 2015

ORDER:

The present criminal petition is filed under Section 482 of Cr.P.C seeking to set aside the judgment dated 21.09.2015 passed in CrI.R.P.No.311 of 2013 in C.C.No.93 of 2013 on the file of the learned II Additional Metropolitan Sessions Judge at Hyderabad and acquit the petitioner herein under Section 7 of Immoral Traffic (Prevention) Act.

2. Heard Sri K.B.Ramanna Dora, learned counsel for the petitioner/accused as well as learned Assistant Public Prosecutor appearing for respondent-State. Perused the record.

3. The brief facts of the case are that on 10.02.2013 at 16:00 hours a complaint has been received from LW-1, B.Jeevarathnam, Sub Inspector of Police, Police Station, Chikkadapally, wherein he stated that on the same day at 15:00 hours while he was on patrolling duty along with staff on Rakshak mobile, when they reached street No.10, Chikkadapally, received credible information that one woman

by name Smt. K.Jyothi w/o K.Raghubluy was running brothel house in premises bearing No.1-1-189/19/B, Chikkadapally, Hyderabad by procuring sex workers from various places and providing the customers at that premises for the purpose of prostitution and earning money, thereby eking her livelihood from those amounts and also causing inconvenience to the neighbours of same house. Therefore, he requested to take action against her. On receipt of the above report of LW-1, LW-9 registered a case in Crime No.54 of 2013 under Sections 3, 4 and 5 (1) (a) of Immoral Traffic (Prevention) Act and took up investigation. After completion of investigation, LW-9 P.Sreedhar, Inspector of Police filed charge sheet against the accused Nos.1 and 2.

4. In support of its case, the prosecution examined PWs.1 to 7 and got marked Exs.P1 to P4 and also M.Os.1 to 4 were got marked.

5 . After appreciating the oral and documentary evidence on record, the learned Magistrate has passed the following order in C.C.No.93 of 2013:

"22. In the result, A2 is found guilty for offence and he is convicted under Section 248(2) Cr.P.C for offence under Section 7 of Immoral Traffic (Prevention) Act and is sentenced to undergo simple imprisonment for three months. M.O.1-cash of Rs.3,000/-, M.O.2-one Nokia cell phone and M.O.4-Nokia cell are ordered to be confiscated to State and M.O.3- Condoms shall be destroyed, after expiry of appeal time. The remand period if any, undergone by the accused shall be set off under Section 428 Cr.P.C".

Aggrieved by the said order, accused Nos.1 and 2 filed criminal Appeal No.793 of 2013 and CrI.R.P.No.311 of 2013 before the II Additional Metropolitan Sessions Judge at Hyderabad (for short 'the appellate Court'). The appellate Court after examining the material facts before it and upon considering the Judgment passed by the trial Court, has dismissed the criminal Appeal No.793 of 2013 and CrI.R.P.No.311 of 2013 by way of common order confirming the Judgment passed by the trial Court.

6. Learned counsel for the petitioner submitted that lower Court failed to consider the following points while passing the Judgment

1. Failed to observe that even assuming without admitting, mere presence of petitioner/accused No.2 and mere having sexual intercourse by paying money does not attract "prostitution" mentioned in Section 7 of the Act.

2. Failed to observe that when the sex worker is shown as LW2 and not made as accused and did not speak about the petitioner, convicting on the ground of seizure and recovery of some amount and mobile phone, would not lead to conclusion of indulging in sexual intercourse with women by paying money and punishing the petitioner is unwarranted. Therefore, the Judgments are liable to be set aside.

7. On the other hand, learned Assistant Public Prosecutor appearing for respondent-State would submit that both the trial Court and appellate Court after appreciating the oral and documentary evidence and facts before it has passed the Judgments.

8. Recording the submissions made by the learned counsel for the petitioner as well as the learned Assistant Public Prosecutor appearing for respondent-State, this Court however is not convinced with the submissions made by Assistant Public Prosecutor. Having not charged the petitioner under Section 370 IPC, the other Sections i.e., Section 7 of Immoral Traffic (Prevention) Act, which has been taken cognizance by the trial Court shall not attract as against the petitioner.

9. Accordingly, the criminal petition is allowed by setting aside the Judgments passed by the trial Court as well as the appellate Court.

Pending miscellaneous applications, if any, shall stand closed.

Sd/- T. VIJAY KUMAR
ASSISTANT REGISTRAR

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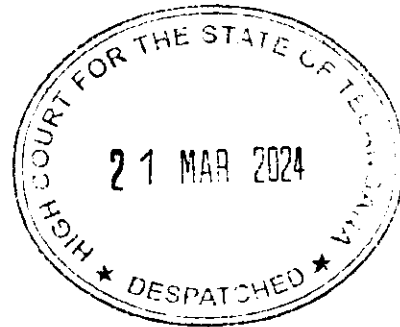
SECTION OFFICER

To,

1. The Court of Special Judicial First Class Magistrate at Hyderabad.
2. The Court of II Additional Metropolitan Sessions Judge, Hyderabad.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
4. One CC to SRI. K .B. RAMANNA DORA, Advocate [OPUC]
5. Two CD Copies

HIGH COURT

DATED:29/12/2023



ORDER

CRLP.No.11109 of 2015

ALLOEING THE CRIMINAL PETITION

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