

July 9, 2024
18 ARDR

CRR 1063 of 2024
CRAN 1 of 2024

Sambhu Nath Paul
Vs.
The State of West Bengal

Adv. Dipankar Chatterjee,
Adv. Dipika Banu,
Adv. Subhadip Chakraborty,
Adv. Bolivia Roy,

... for the petitioner.

Adv. Suman De,
Adv. Santanu Talukdar,

..for the State.

By consent of the parties, the revisional application be taken up for consideration along with the connected application.

Heard learned counsels for the parties.

The petitioner seeks quashing of the proceeding of CGR case no. 4350 of 2019 pending before the learned Chief Judicial Magistrate, Alipore, 24 Parganas (South) under Sections 3/4/5/7 and 18 of the Immoral Traffic (Prevention) Act, 1956 read with Section 120B of the Indian Penal Code primarily on the ground that he is the owner of the premises in question which was let out by him on license to one Bijay Singh for running a Spa in the name and style of "Sweet & Shower Family Saloon & Spa" and was not aware of any immoral trafficking going on in the said flat. Learned counsel has placed reliance on the judgment of the Hon'ble Karnataka High Court at Bengaluru in Criminal Appeal no. 415 of 2022 dated 8th March, 2022 in support of his contention.

Per contra, learned counsel for the State produces the Case Diary and submits that since the petitioner who is admittedly the owner of the premises in question has been ordinarily residing in the upper floor of the premises, it cannot be said that he had no knowledge of the incidents going on in the premises.

It is not in dispute that the petitioner is the owner of the premises in question which was let out to the Spa by execution of a deed of license on 10th February, 2019. The license was valid up to 9th November, 2021. The alleged incident occurred on 8th December, 2019. Charge sheet has been submitted against the petitioner and fourteen others under Sections 3/4/5/7 and 18 of the Immoral Traffic (Prevention) Act and Section 120B of the Indian Penal Code.

In the authority referred to by the petitioner, the Court has held that since the police acknowledged that the petitioner was not aware as to what was happening in the premises, further proceedings against the petitioner could not be permitted to continue. In the said case, the petitioner was residing far away from the premises and had no knowledge of the activities happening therein. The facts situation of the present case is distinguishable from the case under reference. The petitioner is a resident of the upper floor of the premises in question and it is difficult to presume that he had no knowledge about the incidents that were going on in the premises in question. Whether the petitioner was aware of such immoral act going on

in the premises is a factual aspect which needs to be determined by way of evidence before the trial Court.

Upon consideration of the submission made on behalf of the parties as well as material on record, this Court is of the view that the petitioner is required to face the trial and avail of the opportunity to prove his innocence before the learned trial Court. This is not a case where the proceeding pending before the learned trial Court can be axed down at the threshold.

In view of the above, the revisional application, being CRR 1063 of 2024 and the connected application, being CRAN 1 of 2024 are dismissed.

Case Diary be returned.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

(Suvra Ghosh, J.)