

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

Present:

The Hon'ble Justice Rai Chattopadhyay

CRR 407 of 2025

Subhojit Saha

Vs.

The State of West Bengal

For the petitioner : Ms. Suman Sehanabis
: Mr. Salok Sah
: Ms. Anwesha Chakraborty

For the State : Mr. Aniruddha Biswas

Heard On : **22.12.2025**

Judgment On : **22.12.2025**

Rai Chattopadhyay, J.

- 1.** The petitioner who has been charged with offences under Sections 3, 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act, 1956 has come up before this Court in the instant case seeking quashing of the criminal proceedings against him being Sessions Case No. 89 (06) of 2022 corresponding to GR Case No. 280 of 2020, now pending in the Court of learned Additional District and Sessions Judge, 1st Court at Siliguri, Darjeeling.
- 2.** According to Ms. Suman Sehanabis, learned advocate for the petitioner, the offences as alleged against the petitioner would not be applicable in his case, he being allegedly the customer in the

prostitution carried on at the instance of the other co-accused persons.

3. Ms. Sehanabis, learned advocate in this regard has referred to the statement of the detainee alleged to have been a prostitute with whom the petitioner was allegedly found in a compromised position. She submits that, so far as the offence against the petitioner as above are concerned, there is no material available from the statement, mentioned as above. She also submits that, previously the petitioner has been granted anticipatory bail for the reason that, there are no material in CD that the petitioner has controlled the place for being used for commercial sexual activities or has been living on the earning of prostitution.
4. To buttress her argument, Ms. Sehanabis, learned advocate referred to the following judgments:-
 - i. ***Budhadev Karmaskar Vs. The State of West Bengal & Ors.*** reported in **MANU/SCOR/55689/2022**
 - ii. ***Dinesh Tiwari alias Dhirendra Kumar Tiwari Vs. State of U.P.*** reported in **AIRONLINE 2021 ALL 839.**
 - iii. ***Suresh Babu Vs. State of West Bengal*** reported in **AIRONLINE 2022 CAL 1402.**
 - iv. ***Barath S.P. Vs. State of Karnata*** reported in **AIRONLINE 2022 KAR 117.**
 - v. ***Rishi Pal Vs. State of Madhya Pradesh*** reported in **AIRONLINE 2024 MP 1772**

5. The Hon'ble Supreme Court in the judgment of **Budhuadev Karmaskar (Supra)** has been pleased to held that, whenever there is a raid on any brothel, the sex workers concerned should not be arrested or penalized or harassed or victimized, since voluntary sex work is not illegal and running the brothel unlawful. Taking clue thereof, the petitioner has put forth argument that, he is no way connected with the running of brothel as alleged. In the other judgments as referred to by the petitioner, the respective Courts have considered the scope of Section 7 of the said Act of 1956 and categorically held that an alleged customer cannot be understood to have procured or induced or taken any person for the sake of prostitution or detaining any person in the premises for the said purpose or to have lived on the earning of the prostitution allowing the premises to be used as a brothel. Hence, the Courts have held that, an alleged customer cannot be implicated for allegations under the said Act of 1956.
6. Mr. Aniruddha Biswas, learned advocate, who has represented the State, has raised strong objection as to the contentions and prayer of the petitioner as above. He has referred to the documents in CD as well as the statutory provisions to submit that, the petitioner duly comes within the purview of the same and there is no justifiable reason that the Court intervenes into the trial.
7. According to Mr. Biswas, "a customer" shall also be treated as a 'person with whom the prostitution is carried on' as enumerated in Section 7 of the Act of 1956.
8. Heard both the learned advocates. Perused the judgments as referred to by the respective parties and the statutory provisions. So far the judgment of the Co-ordinate Bench in the case of **Suresh Babu**

(Supra) is concerned, according to the ratio decided therein, an alleged customer cannot be treated as subject to the penal provisions under the Act of 1956.

- 9.** The Court has carefully gone into the provisions under Sections 3, 4, 5, 6 and 7 of the Act of 1956. The plain reading of the language appearing therein substantiate the submissions made on behalf of the petitioner.
- 10.** Considering all above, this Court is inclined to find that, the petitioner's prayer may be allowed, he being the alleged customer and not coming within the purview of the provisions of law as alleged against him.
- 11.** For these reasons, the instant revision is allowed. The criminal case No. 89 (06) of 2022 corresponding to GR Case No. 280 of 2020, now pending in the Court of learned Additional District and Sessions Judge, 1st Court at Siliguri, Darjeeling stands quashed, concerning the present petitioner.
- 12.** Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)