



***HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

+ Criminal Petition No.6733 of 2021

% Dated 29-11-2021

Padala Venkata Sai Rama Reddy

..... Petitioner

Vs.

\$ The State of Andhra Pradesh rep. by its Public Prosecutor, High Court of A.P, Amaravati & Anr.

.....Respondents

! Counsel for the petitioner :M/s. A.S.K.S. Bhargav & Avanija Inuganti learned counsel.

^ Counsel for 1st respondent State: Learned Addl.Public Prosecutor

Counsel for 2nd respondent: ---

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> HEAD NOTE:

? Cases referred:

¹ 2013(2) ALD (Cri) 393 = 2014(1) ALT (Cri) 322 (A.P.)

² 2014 (2) ALD (Cri) 264 = 2015 (1) ALT (Cri) 85 (A.P)

³ Order, dated 20.01.2021, in Crl.P.No.312 of 2020, of the Karnataka High Court at Bengaluru.



IN THE HIGH COURT OF THE STATE OF ANDHRA PRADESH

Criminal Petition No.6733 of 2021

Padala Venkata Sai Rama Reddy

..... Petitioner

Vs.

The State of Andhra Pradesh rep. by its Public Prosecutor, High Court
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.....Respondents

COMMON ORDER PRONOUNCED ON: 29-11-2021

HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? --
2. Whether the copies of judgment may be marked
to Law Reporters/Journals -Yes-
3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? -Yes-

JUSTICE CHEEKATI MANAVENDRANATH ROY

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY****Criminal Petition No.6733 of 2021****ORDER:**

This Criminal Petition under Section 482 Cr.P.C. is filed seeking quash of charge-sheet in P.R.C.No.8 of 2021 on the file of the IV Additional Chief Metropolitan Magistrate, Visakhapatnam.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the 1st respondent State.

3. The petitioner is accused No.4 in P.R.C.No.8 of 2021 on the file of the IV Additional Chief Metropolitan Magistrate, Visakhapatnam. The said charge-sheet was filed against him along with other accused for the offences punishable under Sections 370-A(2) of IPC and under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956, on the ground that when the police raided the brothel house that the petitioner was present in the brothel house and he is the customer, who visited the said premises to have sexual pleasure with a prostitute on payment of cash to her. That is the only prime allegation against the petitioner herein, who is accused No.4.

4. The petitioner sought quash of the said charge-sheet that was filed against him primarily on the ground that no prosecution for the offences under Section 370-A(2) of IPC or under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 is maintainable against a person who only visits the



brothel house as a customer. Therefore, he would submit that as it is the case of the prosecution that the petitioner visited the said brothel house only as a customer that the present criminal prosecution launched against him is not maintainable under law and it amounts to abuse of process of Court. Therefore, he sought for quash of the charge-sheet.

5. This Court finds considerable merit in the said contention of the petitioner. In fact the legal position whether a customer who visits the brothel house is liable for prosecution or not is no more an undecided question of law. The said issue has come up before this Court several times and this Court after analyzing the provisions of the Immoral Traffic (Prevention) Act held that a person who visits the brothel house as a customer is not liable for prosecution.

6. In the case of **Z.Lourdiah Naidu v. State of A.P.**¹, this Court held at paras.6 and 7 of the judgment, as follows:

“6. Section 4 of the Act would be attracted only if a person knowingly lives on the earnings of the prostitution of any other person. The activity carried out in a given premises will amount to prostitution within the meaning of Section 2 of the Act only if sexual abuse by exploitation of the person is done for commercial purpose.

7. Section 4 of the Act does not punish or make the person liable for the acts done by the person who is running the brothel house. This Section does not make the person, who carries on prostitution for her own gain, liable for punishment, so also the person who is running the said premises. This Section is meant to punish those persons who are living on the earnings of the prostitute. **The said provision cannot be invoked for prosecuting the persons who visit the said premises.** Therefore, the

¹ 2013(2) ALD (Cri) 393 = 2014(1) ALT (Cri) 322 (A.P.)



ingredients of Sections 3 and 4 of the Act are not made out. In that view of the matter, continuation of proceedings against the petitioners in C.C.No.337 of 2008 on the file of the learned Special Judicial Magistrate of First Class, Yerramanzil, Hyderabad is nothing but abuse of process of Court.”

7. Similarly, in the case of **Goenka Sajan Kumar v. the State of A.P**², it is held at paras 4 and 5 of the judgment as follows:

“4. Section 3 of the Act imposes punishment for maintaining a brothel house or allowing premises to be used as a brothel house. Section 4 imposes penalty for living on the earnings of prostitution. Section 5 deals with the procurement, inducement or inducing a person for the sake of prostitution. Section 6 of the Act speaks about detaining a person in the premises where prostitution is carried out.

5. None of these sections speak about punishment to the customer of a brothel house. Admittedly, the petitioner does not fall under the provisions of Sections 3 to 7 of the Act, as the petitioner was not running a brothel house nor did he allow his premises to be used as a brothel house. The petitioner is not alleged to be living on the earnings of prostitution. It is also not the case of the prosecution that the petitioner was procuring, inducing or inducing any person for the sake of prostitution nor is it the case of the prosecution that any person was earning on the premises where prostitution is carried out.”

8. The aforesaid two judgments squarely apply to the present facts of the case. In the present case also, the petitioner is only a mere customer, who visited the brothel house. Therefore, he is not liable for prosecution for the offences punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

9. Even the Karnataka High Court in the case of **Sri Roopendra Singh v. State of Karnataka**³, also held that the

² 2014 (2) ALD (Cri) 264 = 2015 (1) ALT (Cri) 85 (A.P)



mere presence of persons at the spot during the raid, indicating that they were the customers who had gone to the said spot does not give rise to any criminal liability against the said persons. In arriving at the said conclusion, the Karnataka High Court also relied on the judgment of this Court in **Goenka Sajan Kumar**².

10. Therefore, in view of the settled law in this regard, as the petitioner was found to be present at the spot during the course of raid only as a customer, who visited the said brothel house, no criminal liability can be fastened against him for any of the offences, for which the charge-sheet is filed. Therefore, continuation of criminal proceedings against him, in the said facts and circumstances of the case, would certainly amount to abuse of process of Court.

11. Resultantly, the Criminal Petition is allowed and the aforesaid charge-sheet filed against the petitioner, who is accused No.4, in P.R.C.No.8 of 2021 on the file of the IV Additional Chief Metropolitan Magistrate, Visakhapatnam, is hereby quashed.

Consequently, miscellaneous applications, pending if any, shall also stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date:29.11.2021.

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³ Order, dated 20.01.2021, in Crl.P.No.312 of 2020, of the Karnataka High Court at Bengaluru.