

(2012) 07 SC CK 0026

In the Supreme Court Of India

Case No : Criminal Appeal No (s) . 135 of 2010

Budhadev Karmaskar

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 26-07-2012

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2013) ALLMR(Cri) 321 : (2012) 4 JCR 207 : (2012) 7 JT 592 : (2012) 7 SCALE 477 : (2013) 1 SCC 294

Hon'ble Judges : Gyan Sudha Misra, J;Altamas Kabir, J

Bench : Division Bench

Advocate : P.P. Malhotra, ASG, Pradip Ghosh, Jayant Bhushan, T.S. Doabia, Ashok Bhan, A. Mariarputham, Anand Grover and Tripti Tandon, Manjit Singh, Jayant K. Sud, Manish Singhvi, AAG, Pijush K. Roy, Pallav Mongia, D.S. Mahra, Gaurav Sharma, Sushnma Suri, Satya Siddiqui, S.K. Mishra, D.S. Mahra, Sunita Sharma, Sadhana Sandhu, M. Khairati, S. Wasim, A. Qadri, Anjani Aiyagari, Gunwant Dara, B.V. Balramdas, B.K. Prasad, Manpreet Singh Doabia, Kiran Bhardwaj, Tarjit Singh, Kamal Mohan Gupta, Riku Sarna, Navnit Kumar, for Corporate Law Group, Asha Gopalan Nair, Mukul Singh, Pragati Neekhra Singh, Khawairakpam Nobin Singh, Sapam Biswajit Meitei, Edward Belho, Amit Kumar Singh, K. Enatoli Sema, Sunil Fernandes, Gopal Singh, Atul Jha, Sandeep Jha, Dharmendra Kumar Sinha, A. Subhashini, Anil Srivastav, Rituraj Biswas, Radha Shyam Jena, V.G. Pragasam, S.J. Aristotel, Praburamasubramanian, Jatinder Kumar Bhatia, Mukesh Verma, Chanchal Kr. Ganguli, Abhijit Sengupta, Harendra Singh, Kuldeep Singh, D. Mahesh Babu, Mayur R. Shah, Suchitra H., Amit K. Nain, Aruna Mathur, Yusuf Khan, Movita, for Arputham, Aruna and Company, K.N. Madhusoodhanan, M.T. George, Liz Mathew, Sana Hashmi, Hemantika Wahi, Abhishek Sood, Rohit Kumar Singh, Savita Singh, Amritananda Chakravorty, Ranjan Mukherjee, S. Bhowmick, S.C. Ghosh, Garima Bose, Irshad Ahmad, Balaji Srinivasan, Anitha Shenoy, C.D. Singh, Abhimanyu Singh, Anil K. Jha, Chhaya Kumari, Vibha Dutt Makhija, Anil Katiyar, P.V. Dinesh, Aniruddha P. Mayee, Subramonium Prasad, for the Appellant;

Final Decision : Dismissed

Judgement

1. CRLMP. No. 12415 of 2012, has been filed on behalf of the Union of India, for modification of the order passed by this Court on 19th July, 2011, referring certain issues to the Committee which had been constituted by the said order itself.

2. The first modification sought by the Union of India is for deletion of the Durbar Mahila Samanwaya Samiti, from the panel. The second modification sought is with regard to the third term of reference, which reads as follows:

(3) Conditions conducive for sex workers who wish to continue working as sex workers with dignity.

3. Appearing in support of the application, the learned ASG, Mr. P.P. Malhotra, submitted that the Samiti in question had been actively advocating the revocation of the Immoral Traffic (Prevention) Act, 1956, and had also been advocating the recognition of sex trade being continued by sex workers. The learned ASG submitted that the continuance of such Samiti in the panel is giving a wrong impression to the public that the Union of India was also inclined to think on similar lines. The learned ASG submitted that this wrong impression should be removed by excluding the Samiti from the panel.

4. As far as the second issue is concerned, the learned ASG submitted that wording of such reference could be suitably modified so as not to give an impression that the Union of India was in favour of encouraging the sex workers, in contravention of the provisions of the aforesaid Act.

5. We have heard Mr. Pradip Ghosh, learned senior advocate and Chairman of the Committee, as also learned senior advocate, Mr. Jayant Bhushan, who is also a member of the Committee and its co-Chairman and Mr. Grover, learned senior advocate, on the issue.

6. It has been submitted by Mr. Ghosh that at the meetings of the Committee, the members of the Samiti had contributed a great deal towards the understanding of the problems of the sex workers and it was not as if the said Samiti was encouraging sex trade, but were providing valuable inputs into the problems being faced by people engaged in the trade. Mr. Ghosh, Mr. Grover, and Mr. Bhushan, in one voice urged that, the presence of the Samiti in the Committee was necessary even to function as a sounding board in respect of the problems that are faced by this marginalised and unfortunate section of society.

7. We agree with the submissions made by Mr. Ghosh, Mr. Grover and Mr. Bhushan, learned senior counsel, and are not, therefore, inclined to delete the Samiti from the Committee, as prayed for by the Union of India, and such prayer is rejected.

8. As to the second issue, it will not in any way make any difference to the terms of reference, if the wording of the third term of reference, is modified to the following effect:

Conditions conducive for sex workers to live with dignity in accordance with the provisions of Article 21 of the Constitution.

9. The above modification, should not, however, be construed to mean that by this order, any attempt is being made to encourage prostitution in any way.

10. CRLMP. No. 12415 of 2012, is, therefore, disposed of in term of the aforesaid order.

11. Let this matter now be listed for consideration of the Sixth and Seventh Interim Reports, filed by the Committee, on 22nd August, 2012, at 3.00 p.m.

12. Let this Bench be reconstituted on the said date and time for the aforesaid purpose.