
(2016) 06 AP CK 0017

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 8836 of 2015

Ganda Jinesh Ramnik and others

APPELLANT

Vs

State of Telangana

RESPONDENT

Date of Decision : 07-06-2016

Acts Referred:

Citation : (2016) 2 AndhLDCriminal 282

Hon'ble Judges : M.S.K. Jaiswal, J.

Bench : Single Bench

**Advocate : T. Pradyumma Kumar Reddy, Advocate, for the Appellant; Public
Prosecutor (TG), for the Respondent**

Final Decision : Disposed Off

Judgement

M.S.K. Jaiswal, J.—The criminal petition is filed by petitioners/A2 to A16 under Section 482 Cr.P.C. to quash the proceedings in C.C.No.701 of 2015 on the file of the XXIII Metropolitan Magistrate, Rajendranagar, Cyberabad, Ranga Reddy District, registered for the offences under Sections 294 and 188 IPC and under Sections 7(i), 7 (ii)(a)(b)(c), 3(1)(2)(a), 4 and 5 of Immoral Traffic (Prevention) Act, 1956.

2. Heard the learned counsel appearing for the petitioners/A2 to A16 and the learned Public Prosecutor, representing the State.

3. The allegations levelled against the petitioners in brief are as follows:

On 09.12.2014 at about 11p.m. on information, the Inspector of Police, Moinabad along with mediators conducted raid on Green Home Venture, Chilkur village, Moinabad Mandal, and found the petitioners and others were in drunken state and cabaret dancing with some other women in the vicinity of public place, thereby causing public disturbance and nuisance. The police personnel apprehended the petitioners and others, seized their mobile phones, cash of Rs. 70,350/- from the pool in the hall and liquor bottles under cover of mediators report. As per the investigation done by the police, the non-petitioner/A1 is the

organizer of the said event, that the petitioners/A2 to A16 and others, who came from Mumbai and other places for attending the marriage of the brother of A8, and that at the request of A8 & A9, A1 arranged the rave party, that A23 who took the house of A24 on lease permitted to run the rave party in the leased house on payment of Rs. 15,000/- and thus, prima facie there are specific allegations made against the petitioners for the offences alleged.

4. The point for consideration is as to whether all further proceedings insofar as they are against the petitioners/A.2 to A.16 in C.C.No. 701 of 2015 are liable to be quashed?

5. Briefly stated, the allegations are that the non-petitioner/A.1 is an Event Organizer who arranges dancers from Mumbai and make them perform in Hyderabad in an obscene manner and for that purpose the premises of the non-petitioner/A.24 was taken on lease which was situated at Chilkur village, Moinabad mandal. On 08.12.2014, there was a marriage of the cousin of A.8 and in that connection, the petitioners who are A.2 to A.16 came from different places such as Mumbai, Calcutta and Gujarat and they have hired A.1 for arranging an event in the night. Accordingly, A.1 contracted eight women from Mumbai who are shown as witnesses No. 5 to 12 on condition that for performing a dance for about two or three hours they will be paid Rs. 5,000/- in addition to the flight charges. Accordingly, the women boarded Indigo flight at Mumbai and came to Hyderabad where they were received by the non-petitioner/A.1 and were taken to the place where they were performing Mujra dance. The petitioners herein viz., A.2 to A.16 and others were observing the dance performance by the dancers. They were also said to be consuming alcohol and when information reached the jurisdictional police, they raided the place and apprehended 22 male persons and 8 females and brought them to police station. The police also seized empty liquor bottles, cell phones, cars and some net cash under panchanama.

6. The investigation led to the conclusion that the petitioners herein were participating in a dance programme being performed by eight listed witnesses who were the female dancers who came from Mumbai. It is alleged that they have contravened the provisions of Sections 294 and 188 of Penal Code and Sections 7(i), 7(ii)(a)(b)(c), 3 (1)(2)(a), 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

7. The contention of the learned Counsel appearing for the petitioners/A.2 to A.16 is that except for the allegation that they were watching the event, where certain dancers were performing, nothing is alleged against them so as to attract any of the provisions which are alleged against them. It is further contended that it is not at all on record that any obscene activities were being carried out at the event. Learned Counsel submits that the entire material on record including the statements of all the witnesses on the face of it only show that they were performing mujra dance, but absolutely there is no whisper as to any obscene activities being carried out at that place nor any objects are recovered from the

scene suggesting any objectionable activity being carried out there. Therefore, learned Counsel submits that prosecuting the petitioners/A.2 to A.16 for the offences alleged is nothing but abuse of process of law and therefore the proceedings against them are liable to be quashed. According to the learned Counsel, even if what is alleged is accepted on its face, it is A.1 who has organised the event in the premises of A.24 which was leased out to A.23 (non-petitioners) and that the petitioners except for being spectators have not indulged in any activities which are prohibited either by the provisions of the Penal Code or the Immoral Traffic (Prevention) Act.

8. It is settled proposition of law as has been laid down by the Apex Court in catena of authorities that the inherent power of quashing the proceedings can be invoked where it manifestly appears that there is a legal bar such as want of sanction; where the allegations in the FIR or complaint taken at its face value do not constitute any offence; where the allegations constitute an offence but there is no legal evidence or the evidence adduced clearly fails to prove the charge. It is also well settled proposition that when exercising the jurisdiction, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not which is the exclusive domain of a trial Court.

9. I have carefully scanned through the entire material on record including the statements of the witnesses, the confessional panchanamas and recovery panchanama. I have no hesitation in holding that the alleged acts that are attributed to the petitioners if they are taken to be true on its face do not attract any of the penal provisions as alleged. There is no material on record to show that there was any disobedience to an order duly promulgated by the public servant (Section 188 I.P.C.), there is no evidence on record that the petitioners/A.2 to A.16 were causing any annoyance to others by singing, reciting or uttering any obscene song, ballad or words, in or near any public place so as to attract Section 294 I.P.C. The material also do not show that the petitioners/A.2 to A.16 were in any way indulging in prostitution in or in the vicinity of public place nor are there any allegations that they were using a premises for the purposes prohibited under Section 7(i)(ii) nor is there any evidence to show that the said premises was being used for any prostitution. There is also no evidence on record to show that the petitioners/A.2 to A.16 were living on the earnings of the prostitution nor is there any evidence to show that they have procured or induced any person for the sake of prostitution. Even at the cost of repetition, it may be stated that the entire material evidence on record revolves round the fact that the petitioners/A.2 to A.16 were present at the place where certain dancers brought from Mumbai were performing an event which was organised by the non-petitioner/A.1 at the place owned by the non-petitioner/A.24 and which was taken on lease by the non-petitioner/A.23. Therefore, continuation of the proceedings against the petitioners/A.2 to A.16 for the alleged offences is nothing but abuse of process of law and the same are liable to be quashed.

10. In the result, the Criminal Petition is allowed and the proceedings in C.C.No.

701 of 2015 on the file of the XXIII Metropolitan Magistrate, Rajendranagar, Cyberabad, Ranga Reddy District, registered for the offences under Sections 294 and 188 IPC and under Sections 7(i), 7 (ii)(a)(b)(c), 3(1)(2)(a), 4 and 5 of Immoral Traffic (Prevention) Act, 1956 against the petitioners/A.2 to A.16 are hereby quashed.