

(2017) 05 CAL CK 0014
In the Calcutta High Court
Case No : 154 of 2015

Gangadhar Maity

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 12-05-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 357A](#) -
[Income Tax Act, 1961](#), [Section 4](#), [Section 4](#), [Section 4](#), [Section 4](#)

Citation : (2017) 05 CAL CK 0014

Hon'ble Judges : Siddhartha Chattopadhyay

Bench : SINGLE BENCH

Advocate : Milan Mukherjee, Amal Krishna Samanta, Biswajit Manna, Moinak Bakshi, Ayan Basu, Anasua Sinha

Judgement

1. These criminal appeals emanated from the judgment and order of conviction dated 16.02.2015 and 18.02.2015 passed by the Additional Sessions Judge, Fast Track Court, Haldia, Purba Medinipur in S.T. No. 48 of 2012 by which the learned trial court has convicted all the appellants under Sections 3(1), 4, 5(1), 6(1), 9(1) of Immoral Traffic Act and accordingly passed the order of sentence.

2. Being aggrieved at it and dissatisfied with the order of conviction the appellants convicts preferred following appeals:- (1) Criminal Appeal No. 154 of 2015 has been filed by Gangadhar Maity, (2) Criminal Appeal No. 155 of 2015 has been filed by Chitta Ranjan Roy and (3) Criminal Appeal No. 177 of 2015 has been filed by Gopal Hazra, Billapada Handel and Sukumar Bhunia. All the appellants before this court has been convicted by the order of the learned trial court on the basis of the same F.I.R., evidence and same judgment and, therefore, on consent, all these appeals are taken up for consideration being inter linked with each other. So this court has decided to dispose of all these appeals as aforesaid by a common judgment. The F.I.R. and the evidence of the

prosecution would reveal a very sordid state affairs of the society. Young girls and destitute women had to submit themselves only to maintain their livelihood at the cost of their dignity, honour and chastity.

3. On the basis of source information, the C.I.D. personnel decided to work out the said information and conducted a raid in a hotel "Manihar". During the said raid and search, they had ascertained Chittaranjan Roy, is the owner of the said hotel-cum-brothel and engaged a good number of young girls and destitute women for sexual exploitation for his commercial gain. The said hotel was being run by the manager Gopal Hazra and some other staff. While they were conducting raid, some of the victims took shelter in another adjoining hotel popularly known as hotel "Parashmani" owned by Gangadhar Maity. In course of conducting raid, they recovered 31 (thirty one) female sex workers, who were deployed by the aforesaid owners and managers. Some of them were minors and some of them were majors. During the raid, some documents were seized by the raiding party i.e. one attendance register, two electric bills, one Accounts books of daily marketing of hotel "Manihar", five small note books, containing personal accounts of some victims, girls, sixty pieces of luxury condom and two strip of contraceptive pills, two bottles of black label beer, four pieces of blue film C.D., cash, one L.G. T.V. and one D.V.D. After interrogation it came to light that under some inducement and allurements by the accused persons, the victims came into their clutches and were compelled to have sexual intercourse with customers on payment. The manager used to take that amount from the customers and kept in with him and a very frugal amount were being paid to the victims. Ventilating the manner of search and seizure and the manner of conducting raid, Inspector of police C.I.D. has lodged the complaint against the present appellants and set the law into motion.

4. At the time of argument, learned Counsel appearing on behalf of the respective appellants contended that the electric bill does not stand in the name of the present appellants i.e. Chitta Ranjan Roy and Gangadhar Maity. According to him, they are not the owners of the said hotel. He also added that running a hotel business is not an offence. It is not possible on behalf of the hotel owners to ascertain who hires the hotel room and with whom he resides in that room. According to him, there is no involvement of any of the appellants herein.

5. As against this learned Counsel appearing on behalf of the state contended that evidence of the most of the victims girls, if can be considered in its proper perspectives, in that case it would reveal that the prosecution has been able to make out a tell-tale story. Referring the list of the articles as seized by the police, he submits that for the purpose of running a hotel business an owner/manager does not require to procure condoms, contraceptive pills, blue films and T.V. and D.V.D.

6. The seizure list has been proved in this case which bears the signature of the appellants available at that time. The seizure list speaks that those articles were recovered from the hotel premises. Most of the victim girls disclosed that they

were allured by some persons who had taken them there on an assurance of giving an employment. They came from poverty stricken family. Some of them have been deserted by their husbands. To maintain their family members as well as to maintain their own livelihood they had to take this profession under compulsion. Sometimes the owners and managers compelled them to have sexual intercourse with their customers. The customers deposited that amount as service charges to the managers, who used to maintain an account register showing the payments to the sexual workers for rendering their service. Without going into the details of the evidence as stated by the victims, it is clear that in the garb of hotel business the appellants were mainly running a flesh trade. The victim girls identified the hotel owners and hotel managers and other supporting staffs. Those victim girls were of different districts and they were recovered from this spot. The hotel managers or owners were not known to them, then how could they identify them is a matter of concern. The evidence of the girls (who have not been declared hostile) inspires confidence.

7. Learned Counsel's appearing on behalf of the respective appellants contended that evidence of P.W. 11, P.W. 22, P.W. 17 cannot be accepted as a gospel truth. According to him, corroboration of such case is required. Needless to say that these are all secret acts and so corroboration is very difficult to obtain. The evidence of the victims of sexual workers stand almost at par with the evidence of an injured witness. If other factors are proved in that case the evidence of the victims of sexual offence is entitled to great weight, absence of corroboration notwithstanding. It is also settled principles of law that victim of sexual assault is not treated as accomplice and as such her evidence does not require corroboration. After scanning the evidence of the victims it is found that most of them are married and they were in between the age of 25 to 26 years. Only one victim was placed for ossification test but the reports speak that she was more than 18 years.

8. The police personnels deposed in regard to the raid, search and seizure. The defence could not shake their evidence in any way before the trial court. The evidence of the police personnels and the victims on dock, remain unshaken and their stand was as good as "Rock of Gibraltar". The Investigating Officer has collected certificate from the panchayat which indicates that Citta Ranjan Roy and Gangadhar Maity are the owners of above hotels and the accused Sukumar Bhunia and Billapada Handel are staff of hotel "Manihar" and Gopal Hazra is the manager of hotel "Parashmani".

9. The learned Trial Court, while dealing with the issues had come to a clear finding that since the offences under Section 366A/372/373 of I.P.C. are applicable only against minors so the present appellants were acquitted of the charges in respect of those offences. On a careful scrutiny of the evidence it is crystal clear that those were not at all hotels in its strict sense, but as brothels. The appellant Gangadhar Maity is the owner of "Parashmani" hotel and Gopal Hazra is the manager of the said hotel and having control over the activities of

the victim. The evidence of prosecution witnesses further reveal that Chitta Ranjan Roy is the owner of "Manihar" hotel and Sukumar Bhunia and Billapada Handel are the staffs. They have kept the victims in their hotel-cum-brothel with an intent that such person may have sexual intercourse with the person, who is not the spouse of such person.

10. After hearing the arguments of the respective parties and on a careful reading of the impugned judgment, I am of the view that the learned trial court has considered all the aspects in its proper perspectives and there is little scope to interfere with the finding of the learned trial court. The learned Counsel appearing on behalf of the appellants contended that the appellant Chitta Ranjan Roy is in jail since the order of conviction and he also was in jail for quite a considerable period during trial and in the meantime he has already served out more than four years of imprisonment, without deduction of remission of sentences as he is entitled to get, in terms of jail code. He has also submitted that Gopal Hazra is also in jail since the date of order of conviction and so the period of detention can be taken sympathetically and to award them a lesser punishment. They have their family members and children, who are fully dependent on them. The learned Counsel appearing on behalf of the state did not oppose to such contention and let the matter to this court for rendering discretion.

11. Considering the circumstances, I am of the view that the appellant Chitta Ranjan Roy and Gangadhar Maity are hereby sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.1000/- each i.d. to suffer imprisonment for one month for committing the offence under Section 3(1) of I.T. Act and rigorous imprisonment for one year and to pay a fine of Rs.1000/- each i.d. to suffer imprisonment for one month for committing the offence under Section 4 of I.T. Act and further imprisonment for five years and to pay a fine of Rs.1000/- each i.d. to suffer imprisonment for one month for committing the offence under Section 5(1) of I.T. Act and also five years and to pay a fine of Rs.5000/- each i.d. to suffer imprisonment for one month for committing the offence under Section 6(1) (a) of I.T. Act and also five years and to pay a fine of Rs.5000/- each i.d. to suffer imprisonment for two months for committing the offence under Section 9 of I.T. Act. The convicts Sukumar Bhunia and Billapada Handel and Gopal Hazra, since they are the managers and employees of the respective brothels, are hereby sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.1000/- each i.d. to suffer imprisonment for one month for committing the offence under Section 4 I.T. Act and also they are liable to suffer rigorous imprisonment for four years each and to pay a fine of Rs.1000/- each i.d. to suffer imprisonment for one month for committing the offence under Section 5 (1) of the I.T. Act. The order of sentence is modified to that extent. Period of detention already undergone shall be set off accordingly.

12. In addition to the above the convicts appellant Gangadhar Maity and Chitta Ranjan Roy are hereby directed to pay a sum of Rs.10,000/- each to victim P.W.

11 as compensation as per Section 357A of Cr.P.C., within a month as awarded by the learned trial court. Only after such payment by the appellants as above, the trial court shall issue modified jail warrant to the correctional authority. The victim P.W. 11 is at liberty to approach to the appropriate authority for getting compensation in terms of Section 357A of Cr.P.C. and she is also at liberty to pray for rehabilitation from the state authorities.

13. The criminal appeal stands dismissed save and except the modification of conviction as mentioned above.

14. Let a copy of this judgment and LCR be sent to the learned Court below for information and taking necessary action and to proceed with the case in accordance with law.

15. Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.