
(2014) 06 BOM CK 0207
In the Bombay High Court
Case No : Criminal Appeal No. 858 of 2009

Geeta Kancha Tamang

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 10-06-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161 — Immoral Traffic (Prevention) Act, 1956 - Section 5, 6 — Penal Code, 1860 (IPC) - Section 344

Citation : (2015) ALLMR(Cri) 1437

Hon'ble Judges : Sadhana S. Jadhav, J.

Bench : Single Bench

Advocate : A.S. Shitole, APP, for the Respondent

Final Decision : Dismissed

Judgement

Sadhana S. Jadhav, J.?The appellant herein is convicted vide Judgment and Order dated 8th August, 2009 in the Sessions Case No. 781 of 2008 by the Ad-hoc Additional Sessions Judge, Pune of the offence punishable under Section 344 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs. 1.000/- i.d. to suffer simple imprisonment for three months. The appellant is also convicted of the offence punishable under Section 5 of the Immoral Traffic (Prevention) Act, 1956 and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs. 1000/- i.d. to suffer simple imprisonment for three month. The appellant is also convicted of the offence punishable under Section 6 of the Immoral Traffic (Prevention) Act, 1956 and sentenced to rigorous imprisonment for a period of seven years and to pay a fine of Rs. 1,000/- i.d. to suffer simple imprisonment for three months. Hence, this Appeal. Such of the facts necessary for the decision of this appeal are as follows :

"On 8/9/2008 PSI Bidve was at Pharaskhana Police Station. She received a secret information in respect of wrongful confinement of a minor girl since last four years at House No. 1069, Budhwar Peth, Pune in the brothel. The information further revealed that the brothel keeper is not allowing her to go

outside and the said girl desires to go to her native place. PSI Bidve relegated the said information to Sr. P.I. V.T. Pawar. The police staff including lady police constables decided to raid the premises. Accordingly, they raided the house No. 1069, Budhwar Peth, Pune at 6.30 p.m. The accused i.e. the present appellant was sitting at the door. Upon enquiry, she disclosed her name as Geeta Kancha Tamang and claimed to be the owner of the said house. The police staff disclosed to her the purpose of the raid. She was constrained to consent. When the police entered the said premises, they noticed 15 to 16 girls who were debauched. One of the girl informed the complainant that she desires to go to her native place. The girl informed the complainant that an unknown lady had brought her from Nanded and had handed her over to the accused prior to four months and that accused-appellant is not allowing her to leave the house. The victim further disclosed that she was forced into the prostitution against her wish and the accused had taken the money. The police staff then took the custody of the girl and arrested the accused. Another girl who was originally resident of Hyderabad and some other girls had also expressed their desire to leave. They all had same story to tell. All the victim girls were rescued and thereafter, the complaint was lodged on 8/9/2008. The scene of offence punchanama was drawn by the Sr. P.I. of Pharaskhana Police Station in the presence of the panch witnesses. The papers of investigation mainly included the electricity bill of the said house standing in the name of Pradeshi, the statement of the victims and other relevant documents. After completion of evidence, charge-sheet was filed on 3/11/2008. The prosecution examined 6 witnesses to bring home the guilt to the accused."

2. P.W. I is Vimal Bidve who was attached to Shukrawar Peth Police Station. She has deposed as per the first information report. She has identified the accused in the court as the person whom she was arrested on the spot. She has proved the contents of the first information report which is at Exh. 14. She has deposed that the minor girls were produced before Juvenile Court. They were then produced before the Child Welfare Board alongwith report of P.W. 1. The major girls were sent to Government Women's Hostel at Mundhwa, Pune. The child was born to one of the victim girl. The defence has failed to shatter the evidence of P.W. 1 in the cross-examination. It is elicited in the cross-examination that she does not have the special authority or permission nor she was an officer on special duty under the PITA Act. She has admitted that there is no documents to establish that the accused is the owner of the said building nor they had noticed any leave and licence agreement in the name of the accused. She had denied the suggestion that she had given the crux of the first information report to the writer and it was the writer who had prepared the complaint and hence, there is no scope to doubt the testimony of P.W. 1, who happens to be the first informant.

3. P.W. 2 Shrikar Manohar Devalalkar is the panch for the scene of offence. He has proved the contents of the panchnama. He has also deposed that when they went inside the room they found some girls were sitting. One minor girl caught hold of the lady police and told that she wished to go to her house as she had been forced into prostitution. The accused has also failed to make a dent in the

testimony of P.W. 2.

4. P.W.3 Mrs. Ritu Vinod Kashyap happens to be one of the victim. She has deposed before the Court that she was married to Rakesh Kashyap. He used to beat her under the influence of alcohol. He was not willing to cohabit with her and therefore, she was constrained to leave her matrimonial home and had come to reside with her parents where she had resided for a period of 5 to 6 months. She did not wish to be a burden to her parents. Therefore, in search of work she had come to Pune. Rohit Sharma had brought her to Pune. He had sold her at the brothel and was in the said brothel since 8th March, 2008. She has identified the accused in the court as the brothel owner. She has deposed that the accused used to beat her as she had refused for prostitution. They were not provided with food, clothing and were abused in filthy language, if they refused to cooperate with the accused. She further deposed that at the time of raid, there were 14 to 15 girls alongwith her. There was one minor girl who caught hold the hand of the police personnel and expressed her desire to go back to her parent's house. According to her, the police had enquired with them and had offered to take them to their home town in case they desire to do so. Seven girls out of 14 to 15 girls had shown their willingness to accompany the police. In the cross-examination she has denied suggestion that she was tutored by the APP to depose in the court against the accused. To a question by the Court, P.W. 3 has specifically stated that during the span of 6 months, Police had visited the brothel many times but the victims were concealed when the police arrived and in case, they raised alarm they were beaten up. She has denied to have stated to the police in her statement under Section 161 of the Code of Criminal Procedure, 1973 that she had purchased the make-up articles. The said contradiction is marked as portion marked as "A". She has specifically stated in the cross-examination that Jamuna Tamang used to collect money. Similarly, one Poonam Didi also used to look after the transaction of the money. To the question as to whether she was knowing the house number and the floor of the said house, she has specifically stated that she was not allowed to go outside the house. Hence, the testimony of P.W. 3 is a sterling testimony and leaves no scope to disbelieve the victim.

5. P.W. 4 Rajaram Ghogare is the police constable who was the member of the raiding party. He has deposed before the Court the procedure adopted by the police. It is elicited in the cross-examination that there is scoring in the date in the scene of offence panchanama. However, there is nothing to doubt that raid was conducted on 8/9/2008.

6. P.W. 5 Dr. Milind Wable was working as the Professor and Head of Forensic Medicine, Sassoon Hospital, Pune. He has examined Marjina Shaikh and had opined that she had completed 15 years of age but was less than 17 years. He had similarly examined Pallavi Sonkamble who has completed 14 years but was less than 16 years. In the cross-examination he has admitted that there is a margin of 3 years on either side. Even then, the girls would be minor girls.

7. P.W.6 is Vitthal Pawar who was the Sr. P.I. attached to Pharaskhana Police Station on 8/9/2008. He has deposed before the Court that Lady PSI Bidwe had communicated him an information that some girls were confined and forced into prostitution at house No. 1069 at Budhwarpeth area. He has deposed before the Court the procedure adopted by him in conducting raid and rescuing the girls. It is elicited in the cross-examination that he did not have any documents to show that the raided house belonged to the accused.

8. Upon perusal of the evidence adduced by the prosecution and upon hearing submissions of the learned APP, this Court is of the opinion that the prosecution has proved the guilt of the accused. The letter dated 22nd March, 2014 is received from the accused/appellant while she was lodged in Yerwada Jail. She has communicated to the Court that on 18/5/2014, she would be released from jail as she would have undergone the entire substantive sentence of 7 years imposed upon her and hence, she does not wish to prosecute the appeal. Hence, the conviction of the appellant is upheld. No interference is warranted in the Judgment and Order dated 8th August, 2009 passed by the Ad-hoc Additional Sessions Judge, Pune in Sessions Case No. 781 of 2008. The Appeal stands dismissed.