

(1985) 12 AP CK 0006

In the Andhra Pradesh High Court

Case No : Criminal Miscellaneous Petition No. 2626 of 1985

Moainuddin and Others

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 02-12-1985

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1985) 12 AP CK 0006

Hon'ble Judges : Ramanujulu Naidu, J

Bench : Single Bench

Advocate : K. Rama Sarma, for the Appellant; Addl. Public Prosecutor, for the Respondent

Judgement

1. This is a petition filed under S. 482 of the Criminal P.C. for quashing the proceedings in Calendar Case No. 208 of 1985 on the file of the XII Metropolitan Magistrate, Hyderabad.

2. The petitioners were charge sheeted by the Assistant Commissioner of Police, Malakpet division, Hyderabad under Ss. 4(1), (2)(c) and 8 of the Suppression of Immoral Traffic in Women and Girls Act, 1956, hereinafter referred to as "the Act". In the charge sheet filed against the petitioners it is alleged that the 1st petitioner was running a brothel in his residential house, that on 13th August 1985 he called three pleasure-seekers inside his house, that he produced petitioners 2 to 4, aged 35, 28 and 20 years respectively and offered them for sexual intercourse in consideration of payment of money, that petitioners 2 to 4 exposed their bodies and were making indecent gestures towards those three males for the purpose of prostitution, and that at about that time the Assistant Commissioner of Police, Malakpet division raided the house of the 1st petitioner and arrested all the petitioners.

3. Sri K. Rama Sarma, learned counsel appearing for the petitioners submits that Ss. 4 and 8 of the Act are ultra vires of Art. 14 of the Constitution of India, in that the male partner in the evil doing or act is spared from any attack under the

Act. I however find it difficult to accede to his submission. S. 4 of the Act makes no distinction between a male and a female. Both male and female are made punishable under S. 4 of the Act.

4. It is true that under S. 8 of the Act only a woman or a girl soliciting for the purpose of prostitution is made punishable. The grievance of Sri K. Rama Sarma is that the male partner solicited by the female partner is not made punishable under S. 8 of the Act. The argument though prima facie attractive suffers from a fallacy. What is made punishable is not the actual sexual act between the woman or the girl solicing for the purpose of prostitution and the man who responds to the words or gestures or exposure of the female partner. It is only where a woman or a girl solicits for the purpose of prostitution she is made punishable. S. 8 of the Act does not therefore suffer from the vice of discrimination prohibited by Art. 14 of the Constitution.

5. It is next urged by Sri K. Rama Sarma that the entire case is concocted against the petitioners, that no offences as alleged against the petitioners are made out and that the criminal proceedings launched against the petitioners shall be quashed. There is no substance in this submission either. The charge-sheet prima facie makes out the offences alleged against the petitioners. Whether the evidence to be adduced by the prosecution in support of the charges against the petitioners ultimately brings home the guilt to the petitioners can only be decided by the learned Magistrate.

6. Sri K. Rama Sarma requests this Court to dispense with the personal attendance of petitioners 2 to 4 who were said to have been married to Arab Nationals. I must however observe that petitioners 2 to 4 should make an application to the learned Magistrate for the purpose. I have no doubt that as and when such applications are made the learned Magistrate shall dispose of the same very sympathetically.

7. The Criminal Miscellaneous petition is dismissed.

8. Petition dismissed.