

(2018) 02 KAR CK 0090
In the Karnataka High Court
Case No : 2451 of 2017

S DEVARAJULU

APPELLANT

Vs

STATE OF KARNATAKA

RESPONDENT

Date of Decision : 02-02-2018

Acts Referred:

[Indian Penal Code, 1860](#), [Section 370\(2\)](#),
[Section 366\(a\)](#), [Section 370\(4\)](#)
- Buying or disposing of any person as a slave - Kidnapping, abducting or inducing woman to compel

Citation : (2018) 02 KAR CK 0090

Hon'ble Judges : K.N.Phaneendra

Bench : Single Bench

Advocate : MANJUNATH M R, S RACHAIAH

Final Decision : Allowed

Judgement

1. The petitioner has approached this Court seeking quashing of the entire proceedings in Special C.C.No.160/2016 pending on the file of 54th

Additional City Civil and Sessions Judge, Bengaluru City, presently, pending before the Child Friendly Court, Bengaluru, CCH No.55, for the

offences punishable under Sections 3,4,5,7 of Immoral Traffic Prevention Act, 1956 and 366(A),370(4) 370(2) of Indian Penal Code and also

under Section 17 of Protection of Children from Sexual Offences Act, 2012.

2. The petitioner is arrayed as accused No.2 in the said case who is shown to be absconding in the chargesheet papers.

3. The brief allegations as per the chargesheet are that: the respondent-Police have received a credible information on 8.1.2016 that, the petitioner

and another were indulged themselves in exploiting the minor female children for the purpose of transporting them from one place to another and

also to indulge them in prostitution for wrongful gain. On such information, the police had been to the said place i.e. House No.14, 4th Floor, 1st

Cross, Kirloskar Layout, Peenya, Bengaluru City, and they found that the accused No.1 with the help of accused No.2 and under the guise of

providing job to CWs 4 and 5, they kept them in their house i.e. in house No.14 and forced them for prostitution for making wrongful gain out of

that. In this context, the police have completed the investigation and submitted the chargesheet.

4. After going through the entire chargesheet papers, the Court has directed the High Court Government Pleader to ascertain whether the police

have collected any material to show that this petitioner in any way involved in this case and having knowledge of accused No.1 in house No.14,

which has been taken by CWs 4 and 5 on lease from accused No.2.

5. The learned High Court Government Pleader, after going through the entire materials on record submitted that, the police have not collected any

material to establish the same.

6. Apart from the submission of the learned High Court Government Pleader, the Court also carefully perused the statement of witnesses i.e.

statement of witnesses- Nagaraju, V. Kannan Naydu, Kumari Manjula, Smt. Sonukumari, Shyam S/o. Krishnaiah, Sathish and Gunashekhar.

They all stated only against the accused No.1. Even the voluntary statement of accused No.1 also does not disclose any involvement of accused

No.2 in connection with the allegations made in the case. On overall reading of the entire chargesheet papers, the allegation against this petitioner is

that, he has leased out the property i.e. House No.14 to CWs 4 and 5, i.e. Kumari Manjula and Smt. Sonukumari. Except that, to connect the

accused Nos. 1 and 2 to each other, there is no material placed before the Court.

7. Even considering the above said aspect that the petitioner has leased the premises to CWs 4 and 5, it must be established as per Section 3 sub

clause (b) of Immoral Traffic Prevention Act, 1956, that any person who being the owner, lessor or landlord of any premises or the agent of such

owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a

brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel, then only he shall be punishable under the provisions of

Immoral Traffic Prevention Act, 1956.

8. The statements of CWs 4 and 5 denied running of any brothel. Particularly, they never made any allegations against this particular man. But they

specifically stated about accused No.1 who brought them to the said house and indulged them for prostitution. Therefore, there is absolutely no

allegation whatsoever in order to attract provisions under Section 3(b) of the Immoral Traffic Prevention Act, 1956 or Sections 366(a) or Section

17 of Protection of Children from Sexual Offences Act, 2012, so far as this petitioner is concerned. Under the above said circumstances, there is

no legal impediment to quash the proceedings so far as this petitioner is concerned. Hence, I pass the following:

ORDER

The petition is allowed. Consequently, the Special Criminal case No. 160/2016 arising out of Crime No.21/2016 which is now pending before the

Child Friendly Court, CCH No.55, for the offences punishable under Sections 3,4,5,7 of Immoral Traffic Prevention Act, 1956 and

366(A),370(4) 370(2) of Indian Penal Code and also under Section 17 of Protection of Children from Sexual Offences Act, 2012 and all further

proceedings therein is hereby quashed so far as this petitioner is concerned.

However, the Trial Court can proceed against other accused persons in the case.