

(2002) 08 P&H CK 0042

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 6035-M of 2001 treated as Criminal Revision No. 489
of 2001

Rajiv Puri

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Aug. 27, 2002

Citation: (2005) 2 RCR(Criminal) 524

Hon'ble Judges: Ashutosh Mohunta, J

Advocate: Mr. P.K. Gupta, Advocate. Mr. I.P.S. Sidhu, D.A.G., Punjab., Advocates for
appearing Parties

Judgement

Ashutosh Mohunta, J.

1. This is a petition under Section 482 of the Code of Criminal Procedure for quashing FIR No. 156 dated 15.6.1999 under Sections 3/4/8 of the Suppression of Immoral Traffic in Women and Girls (Prevention) Act, 1956 registered at Police Station Sadar Hoshiarpur as also for quashing the order of framing the charges, Annexure P4.

2. Briefly, the facts of the case are that information was given to the police that one Rupila Rani is carrying on illegal trafficking in women in her house at Hoshiarpur. She is running a brothel and she pays certain amount to the girls and retains certain amount for herself out of the amount charged from the customers. On the basis of the information one Sukhwinder Singh was made a decoy customer. He went to the brothel being run by Rupila Rani and handed over Rs. 500/-. After giving the amount, Sukhwinder Singh gave a signal to the police party which immediately conducted a raid. On search Rupila Rani was found in possession of rupees three hundred (3 notes of hundred each) and two notes of hundred each were recovered from Gagan. Various other persons who were found preparing for intercourse were also caught. During this raid petitioner Rajiv Puri was also found sitting with Rupila Rani. On the basis of above raid, the present FIR was registered against the petitioner and other persons found in the premises. The learned Chief Judicial Magistrate, Hoshiarpur,

framed charges under Sections 3, 4 and 8 of the Immoral Traffic (Prevention) Act, 1956. It is against the framing of the charges that the present revision has been filed.

3. Mr. P.K. Gupta, learned counsel for the petitioner has contended that in order to constitute an offence under the aforesaid Act, there should be an offer of money by the customer and acceptance of this same by the person who offers her body. He referred to persual of Section 2F as well as Sections 3 to 8 of the Immoral Traffic (Prevention) Act, 1956. According to Mr. Gupta, in the present case the petitioner was found merely sitting with Rupila Rani. Neither he had offered any money to her nor the aforesaid Rupila Rani had offered her person. Therefore, the FIR as well as the charges framed against the petitioner are wholly illegal and are liable to be set aside. Mr. Gupta has referred to the case of Sushanta Kumar Patra alias Hemanta Kumar Das v. State of Orissa, reported as 2000(4) RCR(Criminal) 592 in support of his contention.

4. Counsel for the State has stated that challan has now been presented, charges have been framed against the petitioner and therefore, at this stage it would not be proper to quash the FIR or the charges.

5. As per the allegations made in the FIR the petitioner was merely sitting outside the house with Rupila Rani. One Viney Kumar was standing in the courtyard. At the time of raid conducted by the police, the petitioner was neither offering any money to Rupila Rani or to any other girl in the premises run by her and no person was accepting the same. In the present case the element of commercial purpose is completely missing. There was no offer of money by the petitioner and obviously, therefore, there was no acceptance of the same by any girl. The case has been registered against the petitioner merely on the basis that he was sitting outside the premises with Rupila Rani who was running brothel. In view of this, therefore, offences under Sections 3, 4 and 8 of the Immoral Traffic (Prevention) Act, 1956 are not made out. Thus, I am of the view that it is a fit case where FIR as well as the order of framing the charges against the petitioner is wholly illegal.

6. In view of the above, I allow this petition and quash the FIR Annexure P1 and the order of framing the charges, Annexure P4. All proceedings taken in pursuance of the registration of the FIR qua the petitioner only are quashed.