



IN THE COURT OF THE PRL.CIVIL JUDGE & J.M.F.C.,
GOKAK.

PRESENT: Sampath Kumar P Balolagidad
B.A.LL.B.(Spl)

PRL. C.J. & J.M.F.C., GOKAK.

DATED: THIS THE 11th DAY OF JUNE 2026.

C.C. NO:867/2015

Complainant :-		State by P.SI. Gokak Town P.S. (By Asst. Public Prosecutor)
//Vs.//		
Accused :		1. Sanjay Mallappa Goudar, Age : 36 years, R/o Gandhi Maidan, Gokak.
		(A-1 by Sri. S.V.D.,Advocate)

Date of offence	24.12.2014
Date of Report	24.12.2014
Arrest of Accused	24.12.2014
Whether in Custody	NO
Complainant	Anil Kumar H.D
Offences Alleged	U/Secs.3, 4, 5 and 6 of I.T.P.Act, 1956
Evidence Commenced on	17.07.2023
Evidence Closed on	02.04.2026
Opinion of Presiding Officer	Found Not Guilty

: J U D G M E N T :

The accused No.1 has been charge sheeted by P.S.I Gokak Town Police alleging offences punishable U/Sec.3, 4, 5 and 6 of Immoral Traffic Prevention Act, 1956.

2. The prosecution case in brief is as under ;

It is alleged by the prosecution that on 24-12-2014 at around 4.30 p.m, the accused No.1 being the owner of the said lodge, located near Sangolli Rayanna Circle, Gokak city, which falls under the jurisdiction of Gokak city police station, with an intention of earning more money from lodge, instigated the accused No.2, who has been discharged in this case, to engage in illegal prostitution and live off the income generated from it, by asking CW-10 by name Bhagyashree S/o. Avvanna Kalannavar R/o. Naganur to come to room No.13 of the lodge and engaging in prostitution with her in the room, the accused has committed an offence punishable Under sections 3, 4, 5 and 6 of the I.T.P Act.

3. The accused No.1 is enlarged on bail granted by this court. The accused No.1 and 2 were supplied with the prosecution materials in compliance of Sec.207 of Cr.P.C.

since there was sufficient grounds for proceeding against the accused No.1 this court framed the charge against the accused No.1. The charge was read over and explained to the accused No.1 in the language known to him. The accused No.1 has pleaded not guilty of the said offences and claimed to be tried, paving way for criminal trial.

4. The prosecution in order to bring home the guilt of the accused has examined in all 06 witnesses as PW.1 to 6 and got marked about 6 documents as Ex.P1 to P.6 and M.O.1 to M.O.3.

5. On 25-03-2023 the accused No.2 is hereby discharged, subsequently, the case standing against the accused No.2 was discharged. Since, there are incriminating evidence appearing against the accused No.1, the statement as contemplated U/s. 313 of Cr.P.C was recorded. In his statement the accused No.1 has denied the case of the prosecution in toto. The accused No.1 has not led any evidence.

6. Heard the arguments of the APP and also defense counsel. I have carefully perused the materials available on record meticulously.

7. The following points that arise for my determination are as follows:-

1. Whether the prosecution proves beyond all reasonable doubt that on 24-12-2014 at about 4.30 p.m. the accused No.1 was engaged in illegal act of prostitution with CW.10 in his Laxmi Lodge, Near Sangolli Rayanna, Gokak and thereby habitually engaged in doing such illegal act of prostitution knowing that living on the earnings of the prostitution, actively participated in such prostitution and thereby committed an offence punishable U/sec.4 of I.T.P. Act ?

2. Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place accused No.2 in the said Sri. Laxmi Lodge knowing fully well that CW.10 are prostitutes carrying on their profession for their earnings as habitual prostitutes kept them in his lodge and was arrested them in doing illegal act of prostitution along with accused No.1 and converted the said Lodge into brothel, actively participated and willful taken part in such illegal act of the accused No.1 and thereby committed an offence punishable U/s. 3 of I.T.P. Act ?

3. Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time, and place the accused No.1 in presence of illegal act of assisting CW.10 and accused in the illegal act of prostitution induced permitted the Accused No.2 and induced CW.10 to go to the room No.13 for the purpose of prostitution and supplied necessary

materials required for such illegal act of prostitution and thereby committed an offence punishable u/s. 5 of I.T.P.Act?

4. Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time, and place the accused No.1 in presence of illegal act of assisting CW.10 and accused in the illegal act of prostitution induced permitted the accused No.2 and induced CW.10 to go to the room No.13 for the purpose of they have sexual intercourse with the person and thereby committed an offence punishable u/s. 6 of I.T.P.Act?

5. What order or sentence?

8. My answer to the above points is as under:

Point No.1 to 4	:	In the Negative.
Point No.5	:	As per the final order, for the following;

:: REASONS ::

9. **Points No.1 to 4** :- All these points are taken up together for discussion for brevity, to avoid the repetition of facts and also to avoid the confusion.

10. It is well settled principle of law that in criminal jurisprudence it is the bounden duty of the prosecution to prove the guilt of the accused beyond all the shadow of doubt

and the accused need do nothing. On the basis of grundnorm, let me appreciate the evidence available on record.

11. The prosecution in order to prove the guilt of the accused beyond all shadow of doubt has examined in all 6 witnesses as PW.1 to 6, got marked in all 6 documents as Ex.P.1 to P.6 and M.O.1 to M.O.3. PW.1 and PW.2 have conducted the raid. PW. 5 is the ASI who registered the crime against the accused No.1 and investigated the matter.

12. Before going to the merits of the case on hand it would be appropriate and relevant to mention that undisputedly the present case has been investigated by PW.5 who was working as a ASI of Gokak Town police station as on the date of the crime and PW.5 has investigated the matter and submitted the charge sheet against the accused No.1 for the alleged offences stated in the charge sheet. It is pertinent to note that the appreciation of evidence of the witnesses other than PW.5 is not relevant at this juncture as the evidence of PW.5 is sufficient, which goes to the root of the case on hand and strikes the very case of the prosecution. The appreciation of evidence of witnesses other than PW.5 would in no way help the case of the prosecution to bring

home the guilt of the accused beyond all shadow of doubt and the appreciation of the said witnesses would just be a futile exercise.

13. The very conduct of investigation by ASI who has not been authorized to conduct the investigation as per Sec.13 of the Immoral Traffic (Prevention) Act, 1956 strikes to the route of the case on hand. Even otherwise if the prosecution proves the case against the accused No.1 beyond all shadow of doubt, the very conduct of investigation by ASI who is not authorized under the law would render the entire evidence futile.

14. At this stage it is relevant to mention the provision relating to **Section 13 of The Immoral Traffic (Prevention) Act, 1956, which reads as under:**

13. Special police officer and advisory body.—

(1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on behalf of that Government for dealing with offences under this Act in that area.

⁴⁵ ***[(2) The special police officer shall not be below the rank of an Inspector of Police.***

(2A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally: Provided that no such power shall be conferred on—

(a) a retired police officer unless such officer, at the time of his retirement, was holding a post not below the rank of an inspector;

(b) a retired military officer unless such officer, at the time of his retirement, was holding a post not below the rank of a commissioned officer.]

(3) For the efficient discharge of his functions in relation to offences under this Act—

(a) the special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and

(b) the State Government may associate with the special police officer a non-official advisory body consisting of not more than five leading social welfare workers of that area (including women social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act.

⁴⁶ ***[(4) The Central Government may, for the purpose of investigating any offence under this Act or under any other law for the time being in force dealing with sexual exploitation of persons and committed in more than one State, appoint such number of police officers as trafficking police officers and they shall exercise all the powers and discharge all the functions as are exercisable by special police officers under this Act with the modification that they shall exercise such powers and discharge such functions in relation to the whole of India.]***

15. In view of the said provision, the investigation has to be conducted by the police officer not below the rank of inspector of police. But in the case on hand, the investigation has been conducted by the Assistant sub- inspector of Gokak Town police station and the same is not disputed. PW 5 is the investigating officer who conducted the investigation, recorded the statements of witnesses, and received the report and material object M.O 1 to M.O 3 from PW.1, in respect of the case on hand. Admittedly PW.5 is not authorized to conduct investigation of the case on hand in view of the bar under section 13 of Immoral Traffic (Prevention) Act, 1956.

16. It is pertinent to note that the Hon'ble High Court of Karnataka in a similar case **Sri Shajahan vs State Of Karnataka** on 5 February, 2018 **WRIT PETITION NO.3162/2018 AND WRIT PETITION NO.4662/2018 (GM-RES)** has quashed the entire criminal proceedings against the accused therein in respect of the offences alleged, which is similar to the case on hand for the reason that the investigation is hit by section 13 of the immoral traffic prevention act, 1956 and the same is here worth to mention

“7. It is worth to mention the decision of this Court in the case of Shankare Gowda @ Shankara Vs. State by Madanayakanahalli Police Station, Bengaluru and Another reported in ILR 2016 KAR 3067, wherein this Court has also categorically observed that under Section 13 of the Act, the Special Officer and the Advisory Body have been constituted for the purpose of investigation. The Police Sub-Inspector has no jurisdiction to investigate the matter as the said Section says that the Officer should not be below the rank of a Police Inspector and that to, such person to be a notified person as per Section 13 of the Act.

8. In view of the above said legal dictum and also the entire proceedings is hit by Section 13 of the Act and further the customers as I have stated

is not punishable under the said Act, the following order is passed Writ Petitions are allowed.

The entire proceedings in C.C.NO.4328/2007 arising out of FIR No.24/2017 on the file of respondent - Police and the case pending before the JMFC (III) Court, Mangalore, for the offences punishable under Sections 3(2A), 4 and 5 of ITP Act, 1956, are hereby quashed insofar as the petitioners are concerned.”

17. Similarly, the Hon’ble High Court of Karnataka in the case of **Shankare Gowda @ Shankara vs State By Madanayakanahalli** on 3 February, 2016 **CRIMINAL PETITION NO.5330/2015** it has been held as under

“14. The Investigation since not steered by Special Officer appointed by Section 13 of the Act is illegal and vitiated, though the trial has already begun, having noticed the basic infirmity allowing the proceedings to continue any more is abuse of the process of the Court itself. On that count, the petition is liable to be quashed under the jurisdiction of Section 482 of Cr.P.C.

The petition is allowed. The criminal proceedings in S.C.No.219/2013 pending on the file of VIII Additional District and Sessions Judge, Bengaluru Rural District, Bengaluru, is hereby quashed.”

18. In view of the law laid down by our own High Court, which is aptly applicable to the case on hand, the prosecution against the accused cannot sustain. Hence, I am of the considered opinion that the accused is entitled to acquittal. Accordingly, I answer the above said points No.1 to 4 in the **Negative**.

19. **Point No.5** :- In view of the reasons and findings given in the aforesaid paragraphs, I am of the consider view that even though the prosecution has failed to prove the case beyond all reasonable doubt, in view of the investigation being conducted by Police sub- inspector who is not an authorized person under section 13 of the immoral traffic prevention act, 1956, the case is hit by the said provision and as such the accused is entitled for acquittal. Hence, I proceed to pass the following.

: O R D E R :

In exercise of power u/Sec. 248 (1) of Cr.P.C.,
the accused No.1 is hereby acquitted of the offences
punishable U/Sec. 3, 4, 5 and 6 I.T.P Act.

The accused No.1 shall be set at liberty
forthwith.

The surety bond executed with conditions U/s 437 (A) of Cr.P.C. shall remain in force for a period of six months from the date of this judgment. In the mean time if the appellate Court directs the accused No.1 is to be present for the purpose of any appeal preferred against this judgment he shall be present as required by appellate Court.

The Material Object M.O.1 i.e. Samsung Mobile of Rs.500/- and M.O.2 i.e., amount of Rs.500/- is to be confiscated to the State and M.O.3 i.e. Sri. Laxmi Lodge Register, being worthless, is ordered to be destroyed after the expiry of the appeal period.

(Directly dictated to stenographer on computer, transcribed and computerized by her, corrected and signed by me and then pronounced in the open Court on this the **11th day of June -2026**).

**(Sampath Kumar P Balolagidad),
Prl.C.J. & J.M.F.C.,Gokak**

: A N N E X U R E :

1) List of witnesses examined for Prosecution :

PW.1 : Mohsin Abdulmajid Hirekodi,
PW.2 : Mohammadgous Imtiyaz Jamadar,
PW.3 : I.A Soudagar,

PW.4 : Anil Kumar H.D
PW.5 : F.M Jamadar,
PW.6 : Bhagyashree Avvanna Kalannavar,

2) List of exhibits marked for Prosecution :

Ex.P.1 : Raid Panchanama,
Ex.P.1 (a) : Signature of PW.1
Ex.P.1 (b) : Signature of PW.2
Ex.P.2 : Complaint
Ex.P.2 (a) : Signature of PW.4
Ex.P.2 (b) : Signature of PW.5
Ex.P.3 : FIR
Ex.P.3 (a) : Signature of PW.5
Ex.P.4 : Letter issued to Women Hostel,
Ex.P.4 (a) : Signature of PW.5
Ex.P.5 : Property Register Card,
Ex.P.5 (a) : Signature of PW.5
Ex.P.6 : Statement of PW.6

3) List of Material Objects marked for Prosecution:

M.O.1 : Mobile
M.O.2 : Rs.500/-
M.O.3 : Sri. Laxmi Lodge Register.

4) List of witnesses examined for Defence: NIL

5) List of exhibits marked for Defence : NIL

Prl. C.J. & J.M.F.C.,Gokak.