

KAMS010038582022



**IN THE COURT OF THE II ADDITIONAL DISTRICT
AND SESSIONS JUDGE, MYSURU**

Dated this the 31st day of July, 2025

:: PRESENT ::

Sri Mallanagouda, B.Com., LL.M.,
II Addl. District & Sessions Judge,
Mysuru.

SC/203/2022

COMPLAINANT ::

The State by
Vidyaranyapuram Police Station,
Mysuru.

[By : Public Prosecutor]

V/s

ACCUSED No.6 ::

Sri. Pavan,
S/o. Ramashetty,
Aged about 38 years,
R/at. 1st Cross,
Kondanadwara Street,
Kotekar, Mangaluru,
Dakshina Kannada District.

[By : Sri. P.J.D., Advocate]

**ORDERS ON APPLICATION FILED BY THE ACCUSED NO.6
UNDER SECTION 227 OF Cr.P.C.**

This is the case in which the Police Inspector of
Vidyaranyapura Police Station has filed Charge-Sheet

against the accused No.1 to 6 stating that, accused No.3 has taken the house bearing No.185, 27th Cross, 22nd Main, J.P.Nagar, Mysuru belonging to CW.4, the accused No.1 to 5 were running a Brothel House in the said house and on 25.12.2015 when CW.16 conducted raid on the said house he found accused No.6 with CW.5 and both were in sexual intercourse, thereby accused persons have committed the offences punishable under Sections 370(2) and 332 of I.P.C. and Section 3 to 6 of I.T.P. Act.

2. Now the accused No.6 has filed the present application contending that, accused No.6 has not committed any offences as alleged, he is innocent and he was not at the place of the incident, as alleged accused No.2, 4 and 5 are belonging to same village the complainant has registered the case against the present accused No.6 also, even otherwise as per the charge sheet accused No.6 is allegedly a customer of the said Brothel House. Therefore, Section 370 of I.P.C. and Section 3 to 6 of I.T.P. Act are not attracted against the accused No.6, thereby accused No.6 is entitled for discharge.

3. To this application learned Public Prosecutor has filed objection in which it is contended that, the offences alleged against the accused No.1 to 6 are

punishable under Section 3 to 6 of I.T.P.Act and Section 370 of I.P.C. same are serious offences. There is prima-facie material to show that the accused No.1 to 6 have committed the offences alleged against them. The application filed by the accused No.6 under Section 227 of Cr.P.C. is not maintainable at this juncture. Hence, application is liable to be rejected.

4. Heard. Perused the entire record.

5. The points that arises for my consideration are;

(1) Whether the accused No.6 has made out grounds for discharging him under Section 227 of Cr.P.C. ?

(2) What Order ?

6. My findings on the above points are as hereunder;

Point No.1 : In the Affirmative

**Point No.2 : As per final order
for the following;**

:: REASONS ::

7. **POINT No.1:-** It is the case of the prosecution that, accused No.1 to 5 were running a Brothel House in

the house belonging to CW.3 situated at J.P.Nagar, Mysuru and on the date when CW.16 conducted raid over the said house the accused No.6 was also present in the said house as customer of the Brothel House, thereby accused No.1 to 6 have committed the offences punishable under Sections 3 to 6 of I.T.P.Act and Section 370 and 332 of I.P.C.

8. Now the counsel for the accused No.6 has argued stating that, as per Section 3 to 6 of I.T.P. Act customer of the Brothel House cannot be included as accused. Therefore, accused No.6 is not liable for offences alleged against him and he is entitled for discharge.

9. In support of his arguments the learned counsel for accused No.6 has relied upon the following citations ;

1. Order in WP.No.54250/2017 dated 07.12.2017 of Hon'ble High Court of Karnataka, Bengaluru.
2. Order in CrI.P.No.2119/2022 dated 04.04.2022 of Hon'ble High Court of Karnataka, Bengaluru.

10. On the other hand, the learned Public Prosecutor has argued stating that, even if accused No.6 is alleged to be a customer of the Brothel House he is not entitled for discharge at this stage. Only after trial involvement of the accused No.6 or otherwise can be decided. Hence, application of the accused is liable to be rejected.

11. On perusal of the materials available on record and submissions of learned Public Prosecutor and counsel for accused No.6 it appears to me that, as rightly argued by the learned counsel for accused No.6 as held by Hon'ble High Court of Karnataka in the above judgments relied upon by the learned counsel for accused No.6 Section 3 of the I.T.P. Act provides punishment for keeping a Brothel, Section 4 of the I.T.P. Act provides punishment for living on the earnings of prostitution, Section 5 of the I.T.P. Act provides punishment for procuring, inducing or taking person for the sake of prostitution, Section 7 of the I.T.P. Act provides punishment for detaining a person in vicinity of public place. Herein the present case accused No.6 is allegedly a customer of the Brothel House. Therefore, customer of the Brothel House is not included in Section 4 to 7 of the I.T.P. Act. With regard to Section 370 of I.P.C. is concerned it is applicable to the person who

engaged himself in buying or disposing any person as a slave, which is not the allegations made against the accused No.6. Therefore, on all the grounds the proceedings against the accused No.6 are not sustainable. Therefore, it is decided to allow the application filed by the accused No.6 and discharge the accused No.6. Hence, **Point No.1 is answered in the Affirmative.**

12. **POINT NO.2:-** In view of above discussion, I proceed to pass the following;

ORDER

The application filed by the accused No.6 under Section 227 of Cr.P.C. is allowed.

Accused No.6 is discharged for the offences punishable under Section 3 to 7 of I.T.P. Act and Section 370(2) and 332 of I.P.C.

[Dictated to the Stenographer, transcribed & computerized by her, transcript revised, corrected and then pronounced by me in the open Court on this the, **31st day of July, 2025**]

(MALLANAGOUDA)

II Addl. District & Sessions Judge,
Mysuru.