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DURATION: 06 Y 04 M 11 D

IN THE COURT OF JUDICIAL MAGISTRATE, F. C. KHADKI, PUNE.

(Presided over by R. K. Rajebhosale.)

R. C. C. NO. 301/2007.

Ex. 50

STATE OF MAHARASHTRA.

[Through -

Bhosari Police Station, Pune.

....

Prosecution.

V/S.

(1) Meena Ramesh Bhatiya.

Age – 46 Yrs. Occ – -

R/at – F – 3, Mantri Niketan,

Near 11 number bus stop,

Dapodi, Pune.

(3) Jayashri Harish Khatri.

Age-44 Yrs. Occ- -

R/at- Shivaji Building,

River Bank Zopadpatti,

Pimpri, Pune.

....

Accused.

A. P. P. Smt. Kasture for the prosecution.

Advocate Shri. John Rodrics for the accused.

OFFENCE U/S. 3, 4 & 5 OF
THE IMMORAL TRAFFIC
(PREVENTION) ACT.

J U D G M E N T
(Delivered on 12th May, 2014.)

1. Accused prosecuted for the offence punishable Under Section 3,4 and 5 of the Immoral Traffic (Prevention) Act.

2. In short, prosecution case is that 11.10.2007 PSI Sou. Kanchan Jadhav, who was working in Crime Branch, received information that one lady Jaya Khatri running a brothel and she was having Mobile No. 9921353124 for contact. She was doing the business of prosecution in one flat. Therefore, she has informed to Asstt. Commissioner of Police Shri. Satav. As per his direction, they have called one mock customer. They have also called panch witnesses Sudhkar Genu Deshmukh and Sou. Nalini Dilip Sarathe. They have given all the detail information to them regarding conducting the raid. They have given their consent to work with them. The mock customer called Jaya Khatri on her mobile and asked her to provide girl for prostitution. She stated charges of Rs.1,000/- and called him at PMT bus stop No. 11. Thereafter, they have given two notes of Rs.500/- each to him and informed him when girl came to him for sexual intercourse, he has to give miscall to them. Thereafter, they alongwith staff went to But Stop No. 11. They informed the said mock customer to stop at But Stop No. 11. The said lady came there and took the said customer to Mantri Niketan Building in one flat situated at first floor. All the staff waiting for the miscall of the mock customer, but for long time he has not given miscall, therefore, they have conducted raid at Flat No. F-3 in Mantri

Niketan building. In the hall two ladies were sitting. They have given their identification to them and informed their intention to take search of the said flat. They have given no objection for taking search. They found in one room on the bed, the mock customer was in half naked position embracing one girl. They have given cloths to them. ACP Satav asked the name to said girl. She stated her name as Manisha Sachin Patil. The lady present there stated her name as Jaya Khatri. She stated that she was also kept in the said flat alongwith other girl and Meena Bhatiya shows them to the other customers for sexual intercourse, taken Rs.1,000/- from the customer, out of which she give Rs.500/- to them. They have taken search of said girl. They found note note of Rs.500/- which was given by the said customer. The said customer stated that he came with one lady in the said flat, she has shown girl to him, thereafter he has selected one girl, given Rs.1,000/- to her., thereafter, one girl took him in one room for sexual intercourse and while they were having sexual intercourse, police conducted raid. Meena Bhatiya also stated that she is doing the business of prostitution. Therefore, PSI Sou. Kanchan Jadhav lodged report against accused at Bhosari Police Station.

3. On the report lodged by her, offence bearing Crime No. 3231/2007 has been registered against the accused. Further investigation conducted by PSI Dhumal. He has recorded statements of witnesses and after completion of investigation, he filed chargesheet before the Court.

4. Charge has been framed against the three accused vide Exh. 18. Contents are read over and explained to them in vernacular. They pleaded not guilty and claimed to be tried. However, thereafter accused Manisha Sachin Patil remained absent before the Court. Instead of issuing warrant, she did not appear before the Court. Therefore, case is tried separately against remaining accused, who were attending the Court regularly.

5. After recording evidence of prosecution witnesses, statements Under Section 313 of the Code of Criminal Procedure of accused Nos. 1 and 3 are recorded. They denied the allegations against them.

6. Considering the prosecution evidence on record, following points arises for my determination, findings and reasons thereon are as under.

P O I N T S

F I N D I N G S.

(1) Does prosecution proved that on 11.10.2007 at about 2.45 p.m. At F-3, Mantri Niketan, Near 11 number bus stop, Dapodi, Pune, accused No. 1 being the owner kept and accused Nos.2 and 3 assisted accused No.1 in keeping of a brothel?

.... In negative.

(2) Does prosecution proved that on the said date, time and place, accused No. 1 being over the age of eighteen years knowingly lived wholly on the earnings of the prostitution of accused Nos. 2 and 3?

.... In negative.

- (3) Does prosecution proved that on the said date, time and place, accused No. 1 procuring accused Nos. 2 and 3 with or without consent for the purpose of prostitution? In negative
- (4) What order? As per final order.

R E A S O N S

7. AS TO POINT NOS. 1 TO 3 :-

Prosecution examined PW No.1 Police Inspector Kanchan Jadhav. She stated that on 11.10.2007 she was attached to Social Security Branch, Pune, she received information that Jaya Khatri was doing the business of prostitution with the help of girls, she is using Mobile No. 9921353124 for contact by customers. Thereafter, after completing the legal formalities, she has called panchas and also one mock customer for conducting the raid. They have informed them about their intention to conduct the raid. Panchas and mock customer willing to work with them. Therefore, they have decided that mock customer should remain present at bus stop No. 11, Dapodi. As per their plan, bogus customer stopped there, at that time one lady came there and taken him to the flat in Mantri Niketan building, shown girl to him, he has selected one girl and said girl took him in one room. Police had told bogus customer to give miscall when he reached at the flat, but for long time he did not give miscall to them. Therefore, police conducted raid there and found that the said bogus customer was in half naked condition with one girl. She was also having no cloths on her person. Therefore, police have given cloths to them. Thereafter, they came to know that

Jaya Khatri running the business of prostitution with the help of those girl. She take Rs.1,000/- from each customer, out of which she give Rs.500/- to the said girl. They have sized the said notes, which were given by police to the mock customer. They have seized the said mobile hand set. They have prepared the seizure and spot panchanama in presence of panchas. She lodged report against accused vide Exh. 44. In her evidence, she stated that some information given by accused to her, but information given by accused is not admissible in evidence. Therefore, prosecution has to prove there case independently.

8. In cross examination she has stated that there is no written direction from Asstt. Commissioner of Police Satav, in the information they have not mentioned that spot is situated at Dapodi. She could not stated the number of vehicle on which they went to the spot. They have no information about time when said lady came on the bus stop. They have not informed the time to said bogus customer when he should go to the bus stop. However, though there is a separate register for sanction of using the currency notes, but it has not produced before the Court. They have not recorded statements of witnesses, who were residing in Mantri Niketan Building. They have not registered the offence against bogus customer. They have not taken action against him as he has not acted as per their direction. She admitted that as per this Act, Special Police Officer having authority to conduct raid and done the investigation. There is no such letter regarding Special Police Officer by his name. Except the oral evidence, there is no other evidence on record to show that Mr. Satav and other police officials were with her.

9. She stated that panchas were with her. PW No. 2 Nalini Sarathe examined before the Court. She stated that she did not go anywhere alongwith police, police did not prepare panchanama in her presence. She admitted her signature on seizure panchanama vide Exh. 43, but denied its contents. Ld. APP asked her leading questions. She denied that she had been to Flat No. 3, Mantri Niketan alongwith police where they have conducted raid and caught hold accused persons. She also admitted that in so many cases she acted as a panch.

10. Prosecution has not examined other witnesses. In the present case, it has come on record that spot of incident i.e. the flat where the raid was conducted, was situated in one building, therefore, definitely there are adjacent flat owners, but police has not recorded statements of adjacent flat owners. It has come on record that the bogus customer was with them, but his statement was not recorded by police. He could have been one of the best witness in support of prosecution.

11. There is no written direction given by Satav to the informant for conducting raid. However, though as per this Act Special Police Officer having authority to conduct the raid, but such letter has not been filed on record to show that said authority has been given in favour of the informant.

12. There is no independent witness examined by prosecution. Only informant, who is police official, is examined. She stated that in presence of panchas, they have conducted raid, but panch witness is not supporting to her contentions, bogus customer is not examined before the Court. In her evidence some discrepancies came on record. Therefore, the evidence put forth by prosecution does not inspire confidence in mind to bring home the guilt of the accused. Hence, I answer Point Nos. 1 to 3 in the negative and pass following order.

O R D E R

- (1) Accused No. 1) Meena Ramesh Bhatiya and 3) Jayashri Harish Khatri are acquitted vide Section 248(1) of the Code of Criminal Procedure of the offence punishable Under Section 3,4 and 5 of the Immoral Traffic (Prevention), Act.
- (2) Their bail bonds stand cancelled.
- (3) Case to proceed against accused No. 2 Manisha Sachin Patil only.

Khadki.
Date:- 12.05.2014.

(R. K. Rajebhosale.)
Judicial Magistrate, F. C.
Khadki, Pune.

-: CERTIFICATE :-

I affirm that the contents of this P. D. F. File Judgment are same words for word as per original Judgment.

Name of Steno. :- Shri. Y. S. Chaudhari.

Court Name :- Shri. R.K. Rajebhosale, Judicial Magistrate, F. C.
Khadki, Pune.

Date. :- 23.05.2014.

Judgment signed
by Presiding
Officer on :- 12.05.2014.

Judgment uploaded
on. :- 23.05.2014.