

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 08<sup>TH</sup> DAY OF MARCH, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.415 OF 2022

**BETWEEN:**

SRI PRABHURAJ

... PETITIONER

(BY SRI HARISH N.R., ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
BY CHANDRA LAYOUT POLICE STATION,  
REPRESENTED BY STATE PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,  
AMBEDKAR BEEDI,  
BENGALURU - 560 001.

... RESPONDENT

(BY SRI B.J.ROHITH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE CHARGE SHEET FILED AGAINST THE PETITIONER BY RESPONDENT / CHANDRA LAYOUT POLICE STATION, BENGALURU IN CR.NO.19/2020 FOR THE OFFENCE P/U/S 3 OF IMMORAL TRAFFIC PREVENTION ACT AND

CONSEQUENTLY QUASH THE PROCEEDINGS AGAINST THE PETITIONER / ACCUSED NO.2 IN C.C.NO.4319/2020 PENDING ON THE FILE OF VIII ADDL. C.M.M., BENGALURU.

THIS CRIMINAL PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Petitioner is before this Court calling in question the proceedings in C.C.No.4319/2020 registered for the offence punishable under Section 3 of the Immoral Traffic (Prevention) Act, 1956 ('Act' for short).

2. Heard Sri.Harish.N.R., learned counsel appearing for petitioner and Sri.B.J.Rohith, learned High Court Government Pleader appearing for respondent.

3. Brief facts leading to the filing of the present petition, as borne out from the pleadings, are as follows:

The petitioner is the owner of residential premises bearing No.16, Shivagiri Nilaya, Nagarabhavi, 6<sup>th</sup> cross, Coconut Garden, Bengaluru. Petitioner lets out the premises to accused No.1, pursuant to a rent agreement entered into between the parties

on 11.12.2019. A search is conducted by the police on 25.01.2020 on the premises where the tenant-accused No.1 was residing and finds that the accused No.1 was running a brothel. Pursuant to the said search, a crime is registered against the petitioner and others for offences punishable under Sections 3, 4, 5 and 6 of the Act and under Section 370 of the IPC. The petitioner being the owner of the premises was issued a notice on 29.01.2020 to which the petitioner replies on 31.1.2020, explaining the circumstances of him being not aware of what activities happening in the house which he has rented it out. The police, after investigation, have filed charge sheet in the matter against the petitioner as well for the offence punishable under Section 3 of the Act. It is at that juncture the petitioner knocks the doors of this Court in the subject writ petition.

4. Learned counsel for the petitioner submits that in terms of the said Act, the petitioner cannot be hauled into criminal proceedings, as he was owner of the premises and the activities happening in the premises which was rented by him to accused

No.1 was not within his knowledge as he was staying far away from such premises.

5. Learned High Court Government Pleader would submit that the petitioner being the owner is definitely to be brought into trial in terms of Section 3 of the Act and would seek to justify the action of the police in filing the charge sheet even against the petitioner.

6. I have given my anxious consideration to the submissions made by the learned counsel for the parties and perused the material on record.

7. The afore-narrated facts are not being in dispute are not reiterated. Search was conducted on the premises that the petitioner owned and rented out to accused No.1 on 25.01.2020 and case is registered for the offences punishable under Sections 3, 4, 5 and 6 of the said Act. It is germane to notice Section 3 of the Act for consideration of the case of the petitioner, which reads as under:

**“3. Punishment for keeping a brothel or allowing premises to be used as a brothel.—**(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel, shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

**(2) Any person who—**

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

**(b) 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, shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.**

<sup>23</sup>[(2-A) For the purposes of sub-section (2), it shall be presumed, until the contrary is proved, that any person referred to in clause (a) or clause (b) of that sub-section, is knowingly allowing the premises or any part thereof to be used as a brothel or, as the case may be, has knowledge that the premises or any part thereof are being used as a brothel, if,—

*(a) a report is published in a newspaper having circulation in the area in which such person resides to the effect that the premises or any part thereof have been found to be used for prostitution as a result of a search made under this Act; or*

*(b) a copy of the list of all things found during the search referred to in clause (a) is given to such person;*

*(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (a) or clause (b) of sub-section (2) of any offence under that sub-section in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or are held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction.”*

**(Emphasis supplied)**

Section 3(2)(b) of the Act directs that the owner, lessor or landlord of any premises having knowledge of what is happening in the premises, would be brought within the ambit of the offences punishable under Section 3 of the Act. Pursuant to the said search, a notice is issued to the petitioner on 29.01.2020 alleging the aforesaid offences against the petitioner, to which, the petitioner gives his reply clearly narrating that he is not aware of what is happening in the premises that he had rented it

out and stayed far away. The police also while filing the charge sheet indicates the same.

8. In the light of Section 3(2)(b) of the Act and the police themselves acknowledging that petitioner was not aware as to what was happening in the premises, permitting further proceedings to continue against the petitioner would degenerate into harassment and become an abuse of the process of law. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) The impugned proceedings in C.C.No.4319/2020 pending on the file of VIII Additional Chief Metropolitan Magistrate, Bengaluru is quashed *qua* the petitioner.
- (iii) It is made clear that the observations made in the course of the order is only for the purpose of consideration of the case of petitioner under Section 482 of Cr.P.C. and the same shall not bind or

influence the proceedings against any other accused pending before any other *fora*.

**Sd/-  
JUDGE**

bkp  
CT:MJ