

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Cr.Misc.BA No.1450-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.-

My this common judgment shall dispose of the instant bail petition filed by petitioner Abdul Wahab and connected Cr.Misc.BA 1459-P/2015, filed by Mst. Noreen and Cr.Misc.BA No.1460-P/2015, filed by petitioner Mubarak Shah, as all the three are the outcome of one and the same FIR No.1040 dated 04.08.2015, registered under sections 371-B, 371-B and 294 PPC in Police Station Hayat Abad.

2. As per contents of First Information Report, Fida Muhammad SI, on receipt of public complainants from the last so many days qua involvement of Mst. Robina and Mubarak Shah in the detestable affairs of running a brothel house, he alongwith other police officials, raid their house on spy information. Inside the house both the above named accused were allegedly found present. Besides, from in a room of the house, a young boy with a woman who disclosed their names as Abdul Wahab and Mst. Noreen, were found in a compromising position and were preparing for sexual intercourse.

2. Arguments heard and record perused.

3. On perusal of the record, I did not find any written complaint from the public or any oral statement of any independent person

of the locality, recorded by the complainant/SI to support his version. Nobody from the locality has been associated with the alleged raid proceedings despite prior complaints and spy information, so much so that neither owner of the house has been examined nor any evidence has been collected as to the ownership of the house in question. Similarly, none from surrounding houses has been examined by the complainant/SI in support of his version. No material evidence has been collected during investigation to show that petitioners are involved in buying and selling person for the purpose of prostitution, therefore, in the circumstances, application of section 371-A and 371-B PPC is a matter which requires further probe. Provisions of Ss 371-A and

371-B PPC only apply to persons who sell or purchase any person with the intent that such person would be used for the purpose of prostitution or illicit intercourse. When learned AAG was asked about any evidence collected during investigation to fulfill the ingredients of the above two offence, he fairly and frankly conceded that no such evidence has been collected so far. Besides, neither any search warrant has been obtained nor any note-able of the locality has been associated with the alleged raid proceedings, therefore, in the circumstance the alleged raid cannot be termed any better than an intrusion, which is an act prohibited by the Constitution, law and the Holy Quran. The Legislature in their wisdom, having regard to the existing norms of the society, were

conscious of the fact that if cases under such offences are permitted to be registered on spy information or on the complaints lodged by anonymous persons, such practice would have encouraged false reports involving innocent men or women for ill designs.

5. For the reasons discussed above, I am inclined to exercise the discretion of bail in favour of the petitioners. Accordingly, all the three petitions are allowed. Accused/petitioners are admitted to bail provided each one of them furnishes bail bonds in the sum of Rs.3,00,000/- with two sureties each in the like amount to the satisfaction of learned Illaqa Judicial Magistrate/MOD, concerned. The sureties must be local, reliable and men of means.

Announced
26.08.2015

JUDGE

