

BUDHADEV KARMASKAR
v.
STATE OF WEST BENGAL
(Criminal Appeal No. 135 of 2010)

SEPTEMBER 15, 2011

[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

Public Interest Litigation – Sex workers – Problems of – Panel had been set up vide earlier Court order dated 19.07.2011 with Mr. Pradip Ghosh, Senior Advocate, as its Chairman – Suggestions made by the Panel in its Third Interim report dated 12.09.2011 – Held: The suggestions are good – Sex workers face great difficulty in getting ration cards, voter's identity cards or in opening bank accounts, etc. – The authorities should see to it that sex workers do not face these difficulties as they are also citizens of India and have the same fundamental rights as others – Suggestions made by the Panel in its Third Interim Report be seriously taken into consideration by the Central Government, the State Governments and other authorities and hence all efforts be made to implement these suggestions expeditiously – Without a proper office and infrastructure the Panel will not be able to discharge its duties properly – Therefore, again the Central Government and the State Government of Delhi are requested to do the needful in this connection expeditiously – In pursuance of earlier order dated 24.08.2011 the Central Government has deposited a sum of Rs. 10 Lakh with the Secretary General of Supreme Court – Some of the States/ Union Territories have made payment as directed by Supreme Court – However, some of the States/Union Territories are yet to make payment – Those States or Union Territories which have not yet made payment are directed to make payment within three weeks (except those which have no sex workers) – Amount deposited with the Secretary

A *General of Supreme Court be transferred to the account of the Panel in the UCO Bank, Supreme Court Compound Branch – Case be listed on 15.11.2011 by which time another report shall be submitted by the Panel.*

B CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 135 of 2010.

From the Judgment and Order dated 25.07.2007 of the High Court of Calcutta in C.R.A. No. 487 of 2004.

C Solicitor General of India. P.P. Malhotra, ASG, Pradip Ghosh, Jayant Bhushan, T.S. Doabia, Ashok Bhan, A. Mariarputham, S. Sundaravaradhan, Anand Grover, Dr. Manish Singhvi, Shail Kr. Dwivedi, Manjit Singh, S.V. Madhukar, A.A.G., Pijush K. Roy, Rebecca George, Gautam Talukdar, Lajja Ram,

D Gaurav Sharma, Zaid Ali, Sushma Suri, Wasim Quadri, Anjani Aiyagari, Anil Katiyar, Sadhna Sandhu, S.S. Rawat, D.S. Mahra, Irshad Ahmad, Anitha Shenoy, Sandeep Singh, Alka Sinha, Anuvrat Sharma, D. Mahesh, Babu, Ramesh Allanki, Savita Dhanda, V. Pattabhi Ram, Riku Sarma, Navnit Kumar (for

E Corporate Law Group), Anil Shrivastav, Rituraj Biswas, Gopal Singh, Manish Kumar, Anjani Aiyagari, S. Wasim A. Quadiri, A.J. Faisal, Hemantika Wahi, Ashwani Kumar, Tarjit Singh, Kamal Mohan Gupta, Abhishek Sood, Rohit Kr. Singh, Sunil Fernandes, Suhaas R. Joshi, Astha Sharma, P.V. Dinesh,

F Rupesh Babu, Liz Mathew, Jogy Scaria, Sanjay V. Kharde (for Asha Gopalan Nair), Kh. Nobin Singh, Balaji Srinivasan, Radha Shyam Jena, Kuldip Singh, R.K. Pandey, H.S. Sandhu, K.K. Pandey, M. Mohit Mudgil, Aruna Mathur, Avneesh Arputham, Yusuf Khan Aruputham Aruna & Co. Aniruddha P. Mayee, Chanchal Kr. Ganguly, Abhijit Sengupta, T.C. Sharma, Anil K.

G Jha, Chhaya Kumari, S.K. Diwakar, Atul Jha, Dharmendra Kr. Sinha, Vibha Datta Makhija, V.G. Pragasam, S.J. Aristotle, Prabhu, Ramasubramanian, Savita Singh, Tripti Tandon, Amritananda Chakravorty, Mihir Samson, Prakash Kumar Singh, Ravi Kant, A. Subhashini, C.D. Singh, K.N.

H

Madhsoodhanan, M.T. George, Subramonium, Prasad, J.K. Bhatia, Manpreet Singh Doabia, Kiran Bhardwaj, Edward Belho, C.H. Kennedy, K. Inatoli Sema, Nimshim Voshum, Ranjan Mukherjee for the appearing parties. A

The following order of the Court was delivered B

O R D E R

Heard learned Amicus Curiae and learned counsel for the parties. C

This case was initially a criminal appeal, but later was converted into a Public Interest Litigation suo motu by our order dated 14th February, 2011. By that order we dismissed the criminal appeal of the appellant and upheld his conviction. However, we were of the opinion that the problems of sex workers required urgent attention by this Court. Hence, we proceeded thereafter to continue with the case as a Public Interest Litigation and passed several orders thereon, including an order dated 19.07.2011 setting up a Panel with Mr. Pradip Ghosh, Senior Advocate, as its Chairman. D E

Today, the case has been listed again before us and a Third Interim Report dated 12.09.2011 of the Panel appointed by our order dated 19.07.2011 has been filed before us by the Chairman of the Panel Mr. Pradip Ghosh, learned senior counsel. F

From a perusal of the report submitted by the Panel report it appears that the Panel has been doing very good and sincere work in connection with the task which we have entrusted to it. The Panel has taken great pains and has held regular meetings to discuss the problem of sex workers. G

We have earlier pointed out in one of our orders that the problem of sex workers cannot be resolved in a very short time and will require long, patient effort. Our initial aim was to create H

A awareness in the public that sex workers are not bad girls, but they are in this profession due to poverty. No girl would ordinarily enjoy this kind of work, but she is compelled to do it for sheer survival. Most sex workers come from poor families, they are subjected to ill treatment by the owners of the brothels, they are often beaten, not given proper food or medical treatment, and made to do this degrading work. Probably much of the money paid by their customers is taken away by others.

C We are happy to note that the Panel has set about its task in right earnest, and is considering ways and means to implement our ideas so that the sex workers can get some technical training through which they can earn their livelihood and thus lead a life of dignity which is guaranteed by Article 21 of the Constitution of India.

D In the Third Interim Report the Panel has prayed for the following :-

E (a) An appropriate order directing the State Governments and the Local Authorities to issue Ration Cards to the sex workers treating them as persons in special category and relaxing the rigours of the Rules/requirements regarding the verification of their address and without mentioning their profession in the Card;

F (b) An appropriate order be made directing the Central Government and the Election Commission to issue Voter's Identity Cards to the sex workers in relaxation of the rules/requirements in that behalf and without insisting on strict proof of their address/profession and without specifying their profession on the face of the Card;

G (c) An order be made directing the Central Government and the State Governments to ensure that the admission of the children of sex workers in appropriate classes in the Government schools and Government sponsored schools and the schools run by the Municipal and District level

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authorities is not hampered in any way, because of their impaired social status.

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(d) An appropriate order be made directing the Central Government to suitably alter and widen the UJWALA Scheme within a period of six months as directed by order dated 24.08.2011 (vide paragraph 26 of the said order) made in this matter.

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(e) An order or direction be made to the effect that the amount paid or to be paid by the Central Government, State Governments and the Union Territories to the Secretary General of this Hon'ble Court as directed by order dated 24.08.2011, be deposited in the Bank Account of the Panel in the UCO Bank Supreme Court Compound Branch, in the name of "Panel Appointed by Supreme Court in Criminal Appeal No. 135/2011" to be operated jointly by the Chairman of the Panel Mr. Pradip Ghosh and Mr. Jayant Bhusan, a member of the Panel, in terms of the order dated 24.08.2011.

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(f) Such appropriate orders as may be deemed fit and proper be made, for compliance by the Central Government of the earlier order made by the Hon'ble Court on 24.08.2011 with regard to office accommodation, secretarial staff assistance and furnishing the office with necessary infrastructure and to furnish report of compliance in this Hon'ble Court within a period to be fixed by the Hon'ble Court."

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We are of the opinion that the suggestions of the Panel are good suggestions. Sex workers face great difficulty in getting ration cards, voter's identity cards or in opening bank accounts, etc. We are of the opinion that the authorities should see to it that sex workers do not face these difficulties as they are also citizens of India and have the same fundamental rights as others.

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A We, therefore, recommend that the suggestions made by
the Panel in its Third Interim Report (which has been quoted
above) shall be seriously taken into consideration by the Central
Government, the State Governments and other authorities and
hence all efforts shall be made to implement these suggestions
B expeditiously. If there is any difficulty in implementing them, then
on the next date we should be told about such difficulty.

Needless to say, without a proper office and infrastructure
the Panel will not be able to discharge its duties properly. We,
C therefore, again request the Central Government and the State
Government of Delhi to do the needful in this connection
expeditiously.

We are informed that in pursuance of our order dated
24.08.2011 the Central Government has deposited a sum of
D Rs. 10 Lakh with the Secretary General of this Court. Some of
the States/Union Territories have made payment as directed
by us. However, some of the States/Union Territories are yet
to make payment. We direct that those States or Union
Territories which have not yet made payment shall make
E payment within three weeks from today (except those which
have no sex workers).

We further direct that the amount deposited with the
Secretary General of this Court shall be transferred to the
F account of the Panel in the UCO Bank, Supreme Court
Compound Branch in Savings A/C No. 02070210000939.

List this case on 15.11.2011 by which time another report
shall be submitted by the Panel. We hope and trust that the
recommendations made by the Panel will be implemented by
G then by the concerned authorities.

B.B.B.

Appeal Adjourned.