

Madras High Court: A person cannot be sentenced to prison just because he was spotted in a brothel

Recently in the case of *Udhaya Kumar v. The State & others*, when a massage parlor, claimed to be a brothel, was raided, Justice N Sathish Kumar made the statement while quashing a First Information Report (FIR) against the petitioner, who was detained and listed as an accused.

The petitioner was not involved in any sexual act in the purported brothel, according to the Court, and those who were rescued had not made any allegations against him.

The court said, *"In the case on hand, merely because the petitioner was in the place, which is alleged by the respondents to be a brothel being run by some person, the petitioner cannot be fastened with any penal consequence,"*

The Court further stated that the petitioner's actions could not be described as forcing sex workers, and that maintaining the FIR against him was a fruitless exercise that would serve no purpose.

The matter arose when it was claimed that the petitioner was present with prostitution when a police team raided a massage parlour, and as a result, he was captured and charged as an offender. Even if the entire allegation was taken at its value, the single-judge concluded that the petitioner had committed no crime other than his attendance at the purported brothel.

The court further stated that there was no evidence that the petitioner was involved in any sexual act at the purported brothel, and that those who were rescued had made no allegations against him.

The Supreme Court's decision in *Budhadev Karmaskar v The State of West Bengal*, in which it was stated that when a brothel was raided, sex workers should not be jailed, punished, humiliated, or victimised, and only the brothel's operation was illegal, became important, according to Justice Kumar.

As a result, the petition was granted, and the petitioner's FIR was dismissed.

Advocate D Prasanna Kumar represented the petitioner, while Additional Public Prosecutor A Gokulakrishnan represented the respondent.

The Calcutta High Court has found that a customer who just visits a brothel for sexual enjoyment cannot be held accountable for violations of the Immoral Traffic (Prevention) Act.

In April 2022, the Karnataka High Court maintained that a customer identified in a brothel could not be charged for immoral trafficking offences.