

Party Name : MAHARAM ALI. Vs THE STATE OF TRIPURA

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Ms. P. Ghatak, learned counsel appearing for the appellant-petitioner as well as Mr. R. C. Debnath, learned Addl. PP appearing for the State-respondent.

This is a petition filed under Section 389 of the Cr.P.C. for suspending the sentence delivered by the order dated 12.02.2015 by the Sessions Judge, Gomati Judicial District, Udaipur in ST 72(ST/U)/2013.

Ms. Ghatak, learned counsel for the appellant-petitioner has submitted that the prosecutrix (PW-4) cannot be relied by the court inasmuch as she from the very beginning suppressed the material facts particularly in respect of the marital relation she had with the accused. Moreover, from the testimonies of PW-1, the Medical Officer to whom the prosecutrix was produced for examination and PW-2, the nurse who was deputed for assisting PW-1 for the purpose of medical examination, it would be apparent that she resisted such examination for purpose of proving the rape. She has further submitted that PW-5, the daughter of the prosecutrix is apparently a tutored witness. Ms. Ghatak, learned counsel for the appellant-petitioner has further submitted that it would be apparent that the story as projected by the prosecutrix is not reliable.

This Court however will not make any observation on the submission made by Ms. Ghatak, learned counsel for the appellant-petitioner on merit at this stage. Even Mr. R. C. Debnath, learned Addl. PP appearing for the State has submitted that even on exclusion of the testimonies of PWs.1 and 2, adequate evidence has been laid by the prosecution to establish the charge under Section 376 (1) of the IPC.

Be that as it may, since there appears some materials which might create a reasonable doubt, this Court is in prima facie opinion that the sentence may be suspended and the appellant-petitioner may be allowed to remain on bail subject to furnishing of a bail bond of Rs.30,000/- (Rupees thirty thousand) supported by two sureties of the like amount to the satisfaction of the Sessions Judge, Gomati Judicial District, Udaipur with condition that he must not leave his ordinary place of residence without prior permission from this Court. If any adverse report is available in this Court, the Court may cancel the bail as granted by this order.

Accordingly, this petition stands allowed and disposed of.