

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.8519 OF 2010

ORDER

The prayer of the petitioner in this case is as under:

‘For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Honourable Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus, by declaring as illegal and arbitrary the action of the respondent No.1 in not releasing the convicts

1. Krishnaih convict No.299 Yennam,
Central Prison Cherlapally Ranga Reddy District,
2. Md. Hasheem s/o Shaik Hussain Convict. No.8904
Central Prison, Cherlapally, Ranga Reddy District,
3. Md. Shareef s/o Md. Sahed Hussain Convict No.8785.
Central Prison, Cherlapally, Ranga Reddy District,

herein pursuant to G.O.Ms.No. 338 Home (Prisons C) Department dated 24.7.2009, on the ground that the convicts are convicted under section 498-A I.P.C. as per Clause VIII of Para 4 of the said G.O. even though the respondent No.1 released the convicts convicted and sentenced under section 304-B I.P.C, and it is further consequentially prayed that this Honourable Court may be pleased to hold that the 3 convicts herein are entitled to be released forthwith. Since 498-A I.P.C is a lesser degree offence than 304-B I.P.C and it is further consequentially prayed that this Honourable court may be pleased to direct the respondents to forthwith release the said 3 convicts holding that they are entitled to the similar benefit of release as was extend to the convicts convicted under section 304-B I.P.C, as any failure to extend such a benefit of release to the convicts herein amounts to discrimination and pass such other order/s as deemed fit and proper in the circumstances of the case.’

It is significant to note that no challenge has been laid to any Clause of G.O.Ms.No.338 dated 24.07.2009 and on the other hand, the petitioner seeks a declaration that the action of the State in not releasing the three named convicts pursuant to the said GO is illegal. However, the Superintendent, Central Prison, Cherlapalli, filed a counter-affidavit stating that all the three named convicts had suffered conviction in

relation to offences against women under Section 498A and 302 IPC. He further pointed out that in terms of Clause 4(vii) of G.O.Ms.No.338 dated 24.07.2009, prisoners convicted for crimes against women under Sections 354, 376 and 498A IPC who are sentenced to imprisonment for life were not eligible for applying for remission of their sentences.

In the light of the aforestated embargo in the scheme of remission formulated by the State, the named convicts are not entitled to remission of the sentences. The writ petition is misconceived and is accordingly dismissed. Pending miscellaneous petitions shall stand dismissed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

27th JANUARY, 2016

PGS