

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.6338 OF 2011

ORDER

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

‘For the reasons stated in the accompanying affidavit, the petitioners herein prayed that this Hon’ble Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus, by declaring the action of respondent No.1 in not releasing the Convict No.2422 from the 2nd respondent Jail pursuant to G.O.Ms.No.283 Home (Prisons-C) Department, dated 30-10-2010, on the ground that the convict was convicted under Section 498-A I.P.C. and hence he is not entitled to release as per Clause VIII of Para 4 of the said G.O.Ms.No.283 Home (Prisons-C) Department, dated 30-10-2010, even though the respondent No.1 released the convicts convicted and sentenced under Section 304-B I.P.C., and even 302 IPC and it is further consequently prayed that this Hon’ble Court may be pleased to hold that the convict No.2422 is entitled to be released forthwith, since Section 498-A I.P.C. is a lesser degree offence than Section 302 and 304-B I.P.C. and it is further consequentially prayed that this Hon’ble Court maybe pleased to direct the respondents to forthwith release the Convict No.2422 holding that he is entitled to the similar benefit of release as was extended to the convicts convicted under Section 304-B I.P.C. and Section 302 I.P.C. as any failure to extend such a benefit of release to the Convict herein amounts to arbitrariness, discrimination and non-application of mind and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case and in the interests of Justice.’

Convict No.2422 is the son of the petitioner.

It is significant to note that no challenge has been laid to any Clause of G.O.Ms.No.283 dated 30.10.2010 and on the other hand, the petitioner seeks a declaration that the action of the State in not releasing Convict No.2422 pursuant to the said GO is illegal. However, the Superintendent, Central Prison, Visakhapatnam, filed a counter-affidavit stating that Convict No.2422 had suffered conviction under Sections

498A and 302 IPC and pointing out that in terms of Clause 4(viii) of G.O.Ms.No.283 dated 30.10.2010, prisoners convicted for crimes against women under Sections 354, 376 and 498A IPC who were 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, Convict No.2422 is not entitled to remission of the sentence. 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