

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE U. DURGA PRASAD RAO

CrI.A. No. 286 of 2009

JUDGMENT:- (Per Hon' ble Sri Justice Suresh Kumar Kait)

This Criminal Appeal is preferred against the judgment dated 26.11.2008 delivered in S.C.No. 900 of 2007 by the learned VI Additional Sessions Judge (III-FTC), Mahabubabad, Warangal District, whereby the appellant was found guilty of the offence punishable under Section 302 IPC, and accordingly, convicted and sentenced to undergo imprisonment for life and pay fine of Rs.500/-, in default, to suffer simple imprisonment for two months. It is recorded in the impugned judgment that the appellant has undergone imprisonment from 17.01.2007 to 16.06.2007 and from 09.07.2008 till date and the same shall be set off under Section 428 Cr.P.C.

The learned counsel for the appellant submits that as per the Government Remission Policy, in case of life imprisonment, if a male accused has completed seven years of actual imprisonment including remand period together with three years of remission period, he is entitled to be set free only for certain offences, however, the Policy is not applicable if a murder is committed for some personal gain for offences falling under Sections 376, 394, 395 IPC, etc. In case

of a female accused, as per the Government Remission Policy, if she completed five years actual imprisonment including remand period together with two years remission period, then she is entitled to be set free from jail. To that effect, the Government issued orders in G.O.Ms.No. 38 Home (Legal) Department, dated 28.03.2016 and it is one time policy. He further submits that the case of the appellant herein is squarely covered by G.O.Ms.No. 38 and the appellant was already released from prison, as such, he does not want to press the appeal.

The learned Public Prosecutor appearing for the State has produced a copy of the Imprisonment Certificate dated 19.04.2016 issued by the Superintendent, Central Prison, Warangal and submitted that the appellant herein was released from the prison on 29.03.2016 after completion of Actual sentence of seven years including remand period and total sentence (10) years including remission by virtue of the orders in G.O.Ms.No. 38, dated 28.03.2016.

The Imprisonment Certificate dated 19.04.2016 issued by the Superintendent, Central Prison, Warangal is placed on record.

In view of the submissions made by the learned counsel for both the parties, the conviction imposed by the trial Court on the appellant is hereby maintained, however in the light of

the Imprisonment Certificate dated 19.04.2016 issued by the Superintendent, Central Prison, Warangal releasing the appellant from the prison by virtue of the orders issued by the Government in G.O.Ms.No. 38, dated 29.03.2016, the Criminal Appeal is disposed of.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

31.01.2017

U. DURGA PRASAD RAO, J

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