



WEB COPY



W.P.No.21330 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.11.2023

PRONOUNED ON : 12.12.2023

CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**

AND

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

W.P.No.21330 of 2023

A.Perumal

... Petitioner

Vs.

The State rep by
The Inspector of Police,
Chitlapakkam Police Station,
Kancheepuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, directing to release him as per Section 4 of the Probation of Offenders Act, 1958 with necessary penal condition.

For Petitioner : Mr.S.V.Ramamurthy

For Respondent : Mr.E.Raj Thilak (for R1 and R2)
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

The writ petition is for a mandamus to consider the release of the



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petitioner under Section 4 of the Probation of Offenders Act.

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2. The petitioner was convicted by judgment dated 04.11.2019 in S.C.No.281 of 2007, of the learned Sessions and Mahila Judge, Chengalput, and sentenced as follows:

offence under Section	Sentence imposed
450 IPC	To undergo three years of rigorous imprisonment and to pay a fine of Rs.1,000/- in default in payment to undergo six months of simple imprisonment.
376 IPC	To undergo seven years of rigorous imprisonment and to pay a fine of Rs.3,000/- in default in payment to undergo one year of simple imprisonment.
The sentence imposed are ordered to be run concurrently.	

3. The petitioner preferred an appeal before this Court in CrI.A.No.704 of 2009, and this Court, by judgment dated 16.03.2015 dismissed the appeal and confirmed the judgment of conviction and sentence imposed by the learned trial Judge.

4. The petitioner has stated in the affidavit filed in support of the writ petition that he had preferred an appeal before the Hon'ble Supreme Court, and since he did not surrender as directed by the Hon'ble Supreme Court, the SLP filed by him was dismissed.



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6. From the narration of the above facts, it can be seen that, admittedly, the Hon'ble Supreme Court had dismissed the SLP preferred by the petitioner. It is trite law that the benefit under Sections 3 and 4 of the Probation of Offenders Act cannot be claimed as a matter of right. The writ petitioner prays for a writ of mandamus to direct the release of the petitioner under the Probation of Offenders Act. The respondents cannot be directed to consider such a prayer.

7. Further, the petitioner is convicted for the offence under Section



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376 IPC. The facts of the case, as seen from the judgment of this Court confirming the conviction, reveal that the petitioner committed rape on his friend's daughter, who suffered from a mental illness. We are of the view that the benevolent provision of Section 4 of the Probation of Offenders Act cannot be extended to an offence of this nature. The petitioner has not made out any extra-ordinary case to extend the benefit to him.

8. Besides, the writ petition being not maintainable, we find that even otherwise, the petitioner is not a person who would be entitled to the benefit of the Probation of Offenders Act. Hence, this Court finds no merit in the writ petition, and accordingly, the writ petition stands dismissed.

(S.S.S.R., J.) (S.M., J.)
12.12.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

1. The Inspector of Police,
Chitlapakkam Police Station,
Kancheepuram District.

2. The Public Prosecutor,



High Court, Madras.

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S.S. SUNDAR, J.
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Pre-delivery order in
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