

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Seventh day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.15801 of 2018

IN CRL A.753/2018

K.GANESAMOORTHY [PETITIONER]

vs

K.KARTHIKEYAN [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.753/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence impsed on the petitiner by the judgment dated judgment dated 24.08.2018 passed in C.A.No.303/2017 on the file of the Second Additional District Sessions Judge, Erode reversing the judgment dated 03.11.2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Appeal No.753/2018 on the file of the High Court and upon hearing the arguments of M/S.I.C.VASUDEVAN Advocate for the petitioner the court made the following order:-

The acquittal order passed by the trial Court, in S.T.C.No.163 of 2016, dated 03.11.2017, acquitting the petitioner/accused under Section 138 r/w.143 of the Negotiable Instruments Act, was reversed by the learned II Additional District and Sessions Judge, Erode, and the petitioner was convicted under Section 138 r/w.Sec.142 of the N.I.Act and sentenced to undergo simple imprisonment for six months, and also directed to pay the cheque amount of Rs.10,00,000/-, in default, sentenced to undergo simple imprisonment for one month, in C.A.No.303 of 2017, dated 24.08.2018. Hence, the petitioner seeks suspension of sentence.

2.The learned counsel for the petitioner/appellant would submit that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses.

3.In view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for the petitioner, this court is of the considered view that the petitioner herein is

entitled to the relief of grant of suspension of sentence.

4. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on the following conditions:

(i) The petitioner/appellant shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of S.T.C.No.163 of 2016, on the file of the Judicial Magistrate, Fast Track Court No.1, Erode, within a period of four weeks from the date of receipt of a copy of this order;

(ii) The petitioner/appellant/accused shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate (Fast Track) Court No.1, Erode;

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. pending disposal of the appeal.

(iv) In case the conditions are not complied with, the interim order of suspension of sentence shall stand vacated automatically without further reference to this Court.

-sd/-
27/11/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.1, EGMORE

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1 C.C. to M/S.I.C.VASUDEVAN Advocate on payment of necessary charges SR.NO. 22444

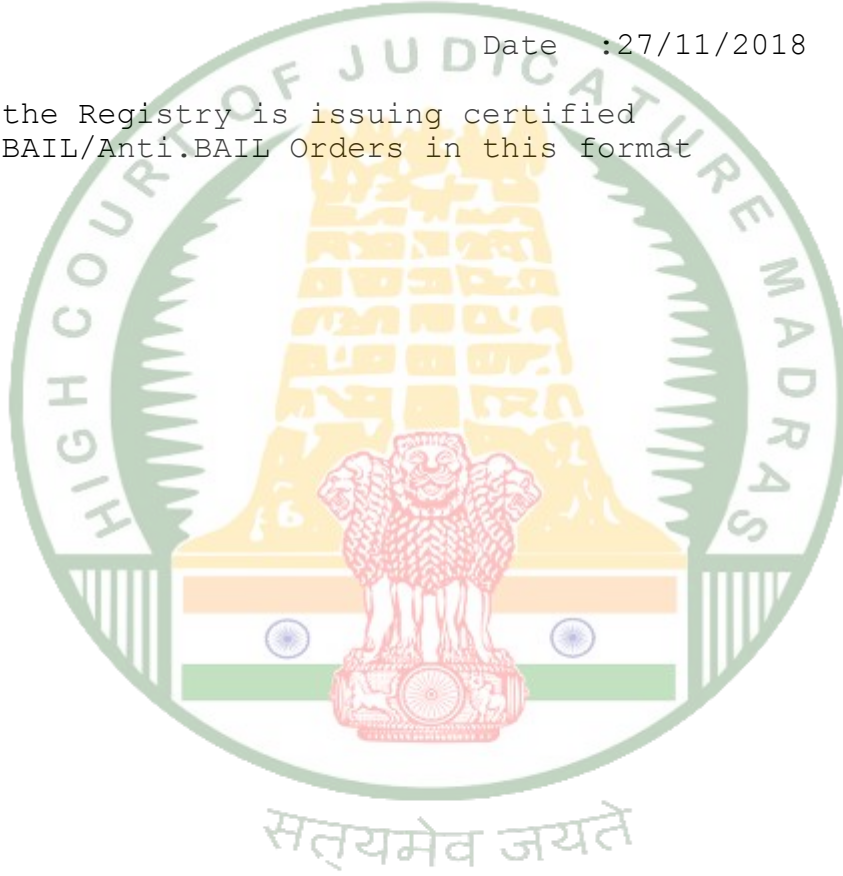
Order

in
CRL MP.15801/2018

in
CRL A.753/2018

Date :27/11/2018

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 27/11/2018



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