

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Nineteenth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.17353 of 2018

IN CRL.A.NO.521 OF 2018

THAMIZHMANI @ MANI

[PETITIONER]

Vs

STATE REP BY
INSPECTOR OF POLICE,
MUDALIARPET POLICE
STATION, PUDUCHERRY,
(CR.NO.201/2011).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.521 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in SC.No.8 of 2014 on the file of the Learned Principal Sessions Judge, Puducherry dated 28.04.2018 enlarged on bail disposal of the above Crl.Appeal No.521/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.521 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.J.C.DURAI RAJ, Advocate for the petitioner and of MR.D.BHARATHA CHAKRAVARTHY, ADDITIONAL PUBLIC PROSECUTOR (PUDUCHERRY) on behalf of the Respondent the court made the following order:-

[Order of the Court was made by **C.T.SELVAM, J**]

Petitioner/Accused faced trial in S.C.No.8 of 2014 on the file of learned Principal Sessions Judge, Puducherry. Trial Court, under judgment dated 28.04.2018, convicted petitioner for an offence u/s.302 IPC and sentenced to undergo Life Imprisonment and imposed a fine of Rs.1,000/- i/d to undergo three months rigorous imprisonment. Seeking suspension of sentence, petitioner has moved the present petition.

2. Learned counsel for petitioner submits that the petitioner is confined at Central Prison, Puducherry, and there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in material particulars in the evidence of the prosecution witnesses.

3. Learned counsel for petitioner further submitted that the case of prosecution is that the deceased was the driver of the Auto owned by the accused. Owing to dispute over the deceased not having paid over some dues to the accused, the accused, on 30.08.2011 at about 8.00 p.m., in the course of a quarrel, caused a stab injury which resulted in death. The learned counsel also submitted that the deceased had been taken to hospital by 8.50 p.m., when he was alive. The Accident Register-Ex.P.20 reflects the position that the assailant was unknown. P.W.2, the alleged eye-witness though has been treated as hostile and in the course of cross-examination by the prosecution, admitted to having witnessed the occurrence is not reliable, since as a fellow auto driver it was to be expected that he would have accompanied the deceased to the hospital, if indeed he had witnessed the occurrence.

4. Heard learned Additional Public Prosecutor on the above submissions.

5. Considering the facts and circumstances of the case and also considering the submissions of learned counsel on either side, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to petitioner herein.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in 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 No.I, Puducherry, and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
19/12/2018

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 JUDICIAL MAGISTRATE,
NO.I, PUDUCHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
MUDALIARPET POLICE STATION,
PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
PUDUCHERRY.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY.

+1C.C. to M/S.J.C.DURAI RAJ Advocate on payment of necessary
charges in SR.NO. 24473

Order

in

CRL MP.17353/2018

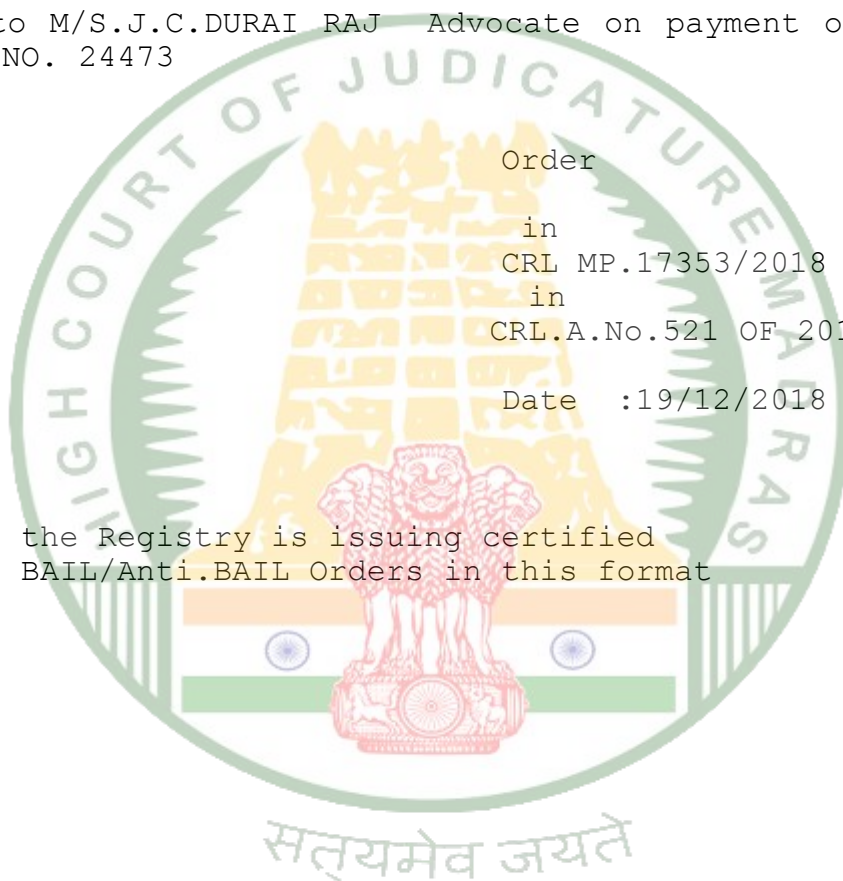
in

CRL.A.No.521 OF 2018

Date :19/12/2018

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MLT-20/12/2018



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