

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fifth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.424 of 2019

IN CRL A.16/2019

1 K.BOOBALAN

[PETITIONERS]

2 M.PRAVEEN

Vs

[RESPONDENT]

STATE REP BY

INSPECTOR OF POLICE,
ANNAMALAI POLICE STATION,
COIMBATORE.

CR.NO.366 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.16/2019 on the file of the High Court, the High Court will be pleased to suspend the conviction imposed in SC No.133 of 2016 on the file of the Learned III Additional District and Sessions Judge, Coimbatore, enlarged on bail pending disposal of the above Criminal Appeal Petition.CRL.MP.NO.424 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.16/2019 on the file of the High Court and upon hearing the arguments of M/S.V.PURUSHOTHAMAN Advocate for the petitioner and of MR.KRITIKAKAMAL.P Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

This is a petition to suspend the sentence imposed on the petitioners by the III Additional District and Sessions Judge, Coimbatore in S.C. No.133 of 2016 on 19.12.2018 and to enlarge the petitioners on bail.

2. The petitioners, who were accused 1 and 2 in S.C. No.133 of 2016 before the III Additional District and Sessions Judge, Coimbatore, were convicted for various terms of imprisonment, the maximum being 5 years of imprisonment.

3. Initially, the first petitioner was charged for the offences under Sections 294 (b), 302 r/w 34 and 307 r/w 34 IPC; the second petitioner was charged for the offences under Sections 302 r/w 34 and 307 r/w 34 IPC. But, the Trial Court has acquitted them of the charges framed under Sections 307 r/w 34 and 302 r/w 34 IPC and has convicted them as follows:

Accused	Provision under which convicted	Sentence
Boobalan (A1)	U/s.304(ii) r/w 34 IPC	Five years rigorous imprisonment and to pay compensation of Rs.50,000/- within a period of one month.
	U/s.324 r/w 34 IPC	One year simple imprisonment and to pay fine of Rs.1,000/-, in default to undergo one month simple imprisonment.
	U/s.294(b) IPC	Pay fine of Rs.500/-, in default to undergo one month simple imprisonment.
Praveen (A2)	U/s.304(ii) r/w 34 IPC	Five years rigorous imprisonment and to pay compensation of Rs.50,000/- within a period of one month.
	U/s.324 r/w 34 IPC	One year simple imprisonment and to pay fine of Rs.1,000/-, in default to undergo one month simple imprisonment.

The State has not preferred any appeal against their acquittal for the charges framed under Sections 307 r/w 34 and 302 r/w 34 IPC.

4. It is the case of the prosecution that on 10.11.2015, the *de facto* complainant along with his five friends went to Uppar river at Ondivelanpalayam to have liquor, there a wordy quarrel arose between the accused persons. The accused persons had beaten the *de facto* complainant and his friends with coconut stem and stone bricks, due to which, one Murugan @ Muruganandan died on the spot.

5. The petitioners have raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Moreover, the petitioners are in custody from the date of the judgment, viz., 19.12.2018. In such view of the matter, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are ordered to be released on bail

on the following conditions:

(i) The petitioners shall deposit the compensation of Rs.50,000/- each in the Trial Court and the compensation amount shall be paid to the wife and children of the deceased Murugan @ Muruganandam, as directed by the Trial Court.

(ii) After complying with condition No.(i) above, the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Trial Court.

(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iv) The petitioners shall appear before the trial Court on the first working day of every month until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

-sd/-

25/06/2019

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 III ADDITIONAL DISTRICT
AND SESSIONS JUDGE,
COIMBATORE

2 THE JUDICIAL MAGISTRATE,
COIMBATORE

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

सत्यमेव जयते
WEB COPY

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
ANNAMALAI POLICE STATION,
COIMBATORE.

+1 C.C. to M/S.V.PURUSHOTHAMAN Advocate on payment of necessary
charges SR.NO. 12510

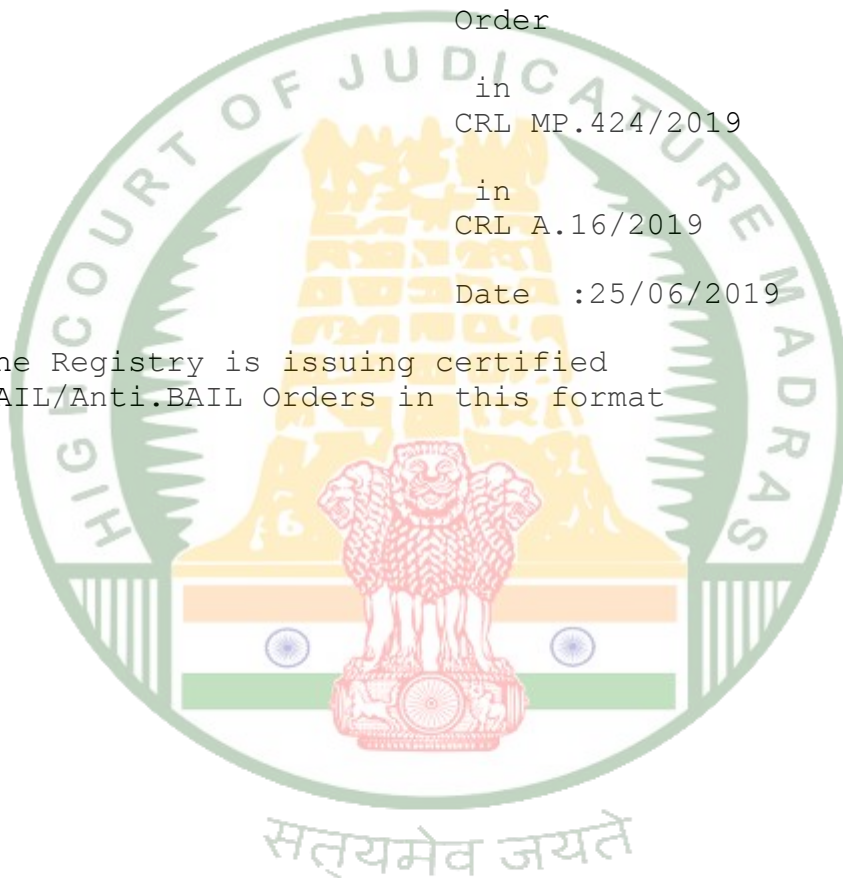
Order

in
CRL MP.424/2019

in
CRL A.16/2019

Date :25/06/2019

From 7.2.2001 the Registry is issuing certified
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RD 28/06/2019



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