

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of October Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.952 of 2019

IN CRL.A.NO.48 OF 2019

ANAND

[PETITIONER]

Vs

STATE REP BY
INSPECTOR OF POLICE,
J-6, THIRUVANMIYUR POLICE STATION,
CHENNAI.
CR. NO. 413 OF 2016.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.48/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of life imprisonment passed against the appellant in judgement dt.8.10.2018 in SC.No.219 of 2016 on the file of Sessions Judge, Mahila Court, Chennai. [CRL.MP.NO.952/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.48/2019 on the file of the High Court and upon hearing the arguments of M/S.M.MOHANA SUNDARAM, Advocate for the petitioner and of MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by M.M.SUNDRESH,J)

The petitioner has been arrayed as sole accused in S.C.No.219 of 2016 on the file of Sessions Judge, Mahila Court, Chennai. The trial Court by judgment dated 08.10.2018 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The deceased is none other than the wife of the petitioner. The case of the prosecution is that due to the dowry demand, the alleged occurrence had taken place. The trial Court placing reliance upon the evidence of P.Ws.1 to 4 coupled with P.W.8, who is the

Doctor convicted the petitioner notwithstanding the fact the evidence of eye witness, namely, the P.W.6 was disbelieved.

3. The learned counsel appearing for the petitioner would submit that he has been under incarceration for more than a year. When the evidence of P.W.6 is disbelieved, the trial Court ought not to have accepted the evidence of P.Ws. 1 to 4. There is no recovery made. Therefore, the sentence imposed will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State would submit that motive has been clearly established. There has been a dowry demand. P.W.4 has informed P.W.1, who is the father of the deceased about the occurrence. The trial Court considered the evidence available and convicted the petitioner. Thus, the petition will have to be dismissed.

5. We do find sufficient points available for argument in the appeal. The evidence of eye witness has not been believed by the trial Court. Therefore, it is the case of circumstantial evidence. Thus, we are of the view that the petitioner is entitled for suspension of sentence especially, when he has been under incarceration for more than a year.

6. Considering the above coupled with the period of incarceration of the petitioner, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the petitioner executes 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 the Sessions Judge, Mahila Court at Chennai and on further condition that the petitioner shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

23/10/2019

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

TRUE COPY

WEB COPY

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

TO

1 THE SESSIONS JUDGE
MAHILA COURT, CHENNAI

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
J-6, THIRUVANMIYUR POLICE STATION,
CHENNAI.

+1 C.C. to M/S.M.MOHANA SUNDARAM Advocate on payment of
necessary charges SR.NO.21817

Order

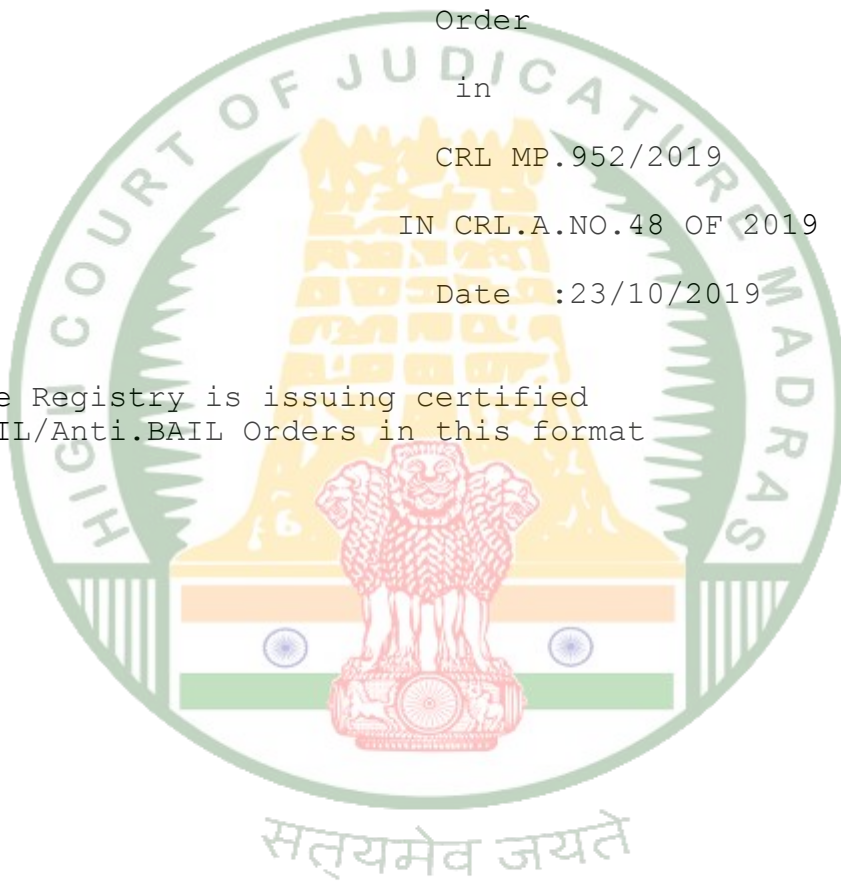
in

CRL MP.952/2019

IN CRL.A.NO.48 OF 2019

Date :23/10/2019

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RD 23/10/2019



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