

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice S. RAMATHILAGAM

CRIMINAL MISCELLANEOUS PETITION No.848 of 2019

in CRL.A.NO.178/2018

NANDISWARAN

[PETITIONER/1ST APPELLANT/ACCUSED]

Vs

STATE REP.BY

[RESPONDENT]

INSPECTOR OF POLICE,
VEPPANAHALLI POLICE STATION,
KRISHNAGIRI DISTRICT.
CR.NO.160 OF 2007.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.178 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in SC 122 of 2008 by Judgment dated 27.02.2018 on the file of Additional District and Sessions Judge, Krishnagiri and enlarge the petitioner on bail pending disposal of above C.A.No.178/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.178 of 2018 on the file of the High Court and upon hearing the arguments of MR.A.NAVANEETHAKRISHNAN, SENIOR COUNSEL FOR M/S.K.SELVARANGAN, Advocate for the petitioner and of MR. K.PRABAKARAN, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **C.T.SELVAM, J**)

Petitioner/A.1 along with 9 others faced trial in S.C.No.122 of 2008 on the file of the learned Additional District and Sessions Judge, Krishnagiri. Under Judgment dated 27.02.2018, the petitioner was convicted and sentenced by the trial Court as follows:

Rank of Accused	Conviction	Sentence
A.1	148 IPC	2 years R.I
A.1	341 IPC	1 month R.I.
A.1	302 IPC	Life Imprisonment and fine of Rs.1,000/- in default 2 years R.I.
A.1	326 IPC	4 years R.I. and fine of Rs.1,000/- in default 6 months R.I.

Seeking suspension of sentence, petitioner has moved the present petition.

2.We have heard Mr.A.Navaneethakrishnan, learned senior Counsel appearing for petitioner as also the learned Additional Public Prosecutor appearing for respondents.

3. Mr.A.Navaneethakrishnan, learned Senior Counsel appearing for petitioner submits that the petitioner is confined at Central Prison, Vellore, 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.

4.Learned Senior Counsel further submitted that co-accused viz., A.1 to A.4 in a case tried in S.C.No.122 of 2008 on the file of learned Additional District and Sessions Judge, Krishnagiri, have been granted bail pursuant to the order of this Court passed in Crl.M.P.No.6995 of 2018, dated 11.10.2018 and A.5 to A.9 have been granted bail in Crl.M.P.No.4269 of 2018 dated 19.03.2018.

5. It is seen that in the course of the occurrence, the petitioner/A.1 has also suffered injury and the fact of his having been admitted in the hospital on the date of occurrence at 9.30 a.m., which is admitted by P.W.24, Investigating Officer. It is also admitted that A.1 was arrested only after being discharged from hospital. It is further seen that while the present case arises from case registered in Crime No.160 of 2007, a counter case has been registered in Crime No.161 of 2007, on the complaint of the petitioner/A.1. While P.W.24, in evidence, is evasive by stating that the case registered in Crime No.161 of 2007 has been closed as 'mistake of fact' and that he is not aware whether the copy of the closure report has been forwarded to the complainant/petitioner/A.1, petitioner/A.1 has applied for copy of Charge Sheet in such case and has been informed by the Court concerned that the same is not available.

6. Considering the facts and circumstances of the case and also considering the rival submissions made by the 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.

7. 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 the learned ***Judicial Magistrate, No.II, Krishnagiri**, and on further condition that petitioner shall **STAY AT TRICY AND REPORT BEFORE THE TRICHY TOWN POLICE STATION DAILY AT 8.00 A.M. FOR A PERIOD OF FOUR WEEKS.**

-sd/-
25/01/2019

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.

*** AMENDED AS PER ORDER IN CRL.MP.1995/2019 IN CRL.MP.848/2019 IN CRL.A.NO.178/2019 by**

**The Hon`ble Mr Justice C.T.SELVAM
AND
The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA**

TO

1 *** THE JUDICIAL MAGISTRATE, NO.II, KRISHNAGIRI .**

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE ADDL. DISTRICT AND
SESSIONS JUDGE, KRISHNAGIRI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
VEPPANAHALLI POLICE STATION,
KRISHNAGIRI DISTRICT.

7 THE OFFICER INCHARGE,
TRICHY TOWN POLICE STATION,
TRICHY.

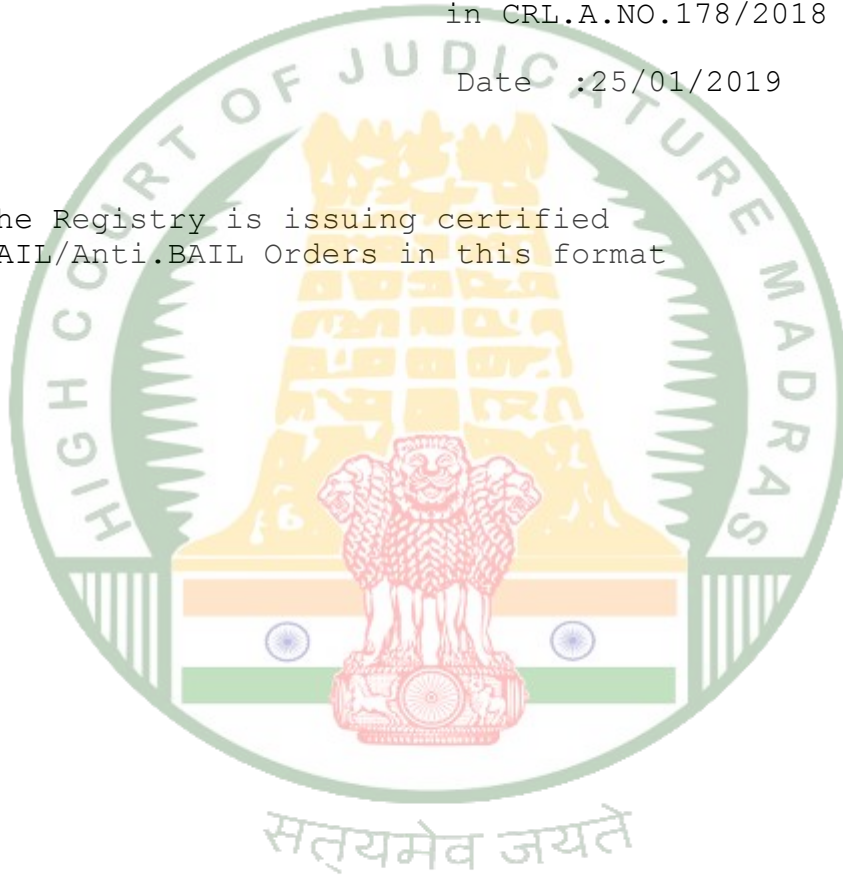
+1 C.C. to M/S.K.SELVARANGAN Advocate on payment of necessary
charges-Sr.1615
SR.No.2607

Order

in
CRL MP.848/2019
in CRL.A.NO.178/2018

Date :25/01/2019

From 7.2.2001 the Registry is issuing certified
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ths : 31.01.2019
ths : 07.02.2019



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