

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.3471 of 2019

in CRL.A.NO.718/2018

PARAMESWARI

[PETITIONER/APPELLANT]

Vs

THE STATE REP. BY
INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
THITTAKUDI TALUK,
CUDDALORE DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence imposed as against the petitioner in the Judgment dt 31.07.2018 in S.C.No.6 of 2017 on the file of III rd Additional District and Sessions Judge, Cuddalore at Vriddhachalam, enlarge on bail pending disposal of the above Crl.A.No.718 of 2018.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of MR.R.KARTHIGEYAN FOR M/S.CT.MURUGAPPAN, Advocate for the petitioner and of MR. R.PRATHAP KUMAR, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner is arrayed as Accused No.1 and she along with other accused were prosecuted for the commission of offences under Sections 120-B r/w Section 302, 302 r/w 34, 109 r/w 302 IPC. The Court of IIIrd Additional District and Sessions Judge, Cuddalore, vide impugned judgment dated 31.07.2018 had convicted A1 for the commission of offence under Section 109 r/w Section 302 IPC, imposed her a sentence of Rigorous Imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo three months Simple Imprisonment and acquitted her for the commission of offence under Section 120-B read with 302, 302 r/w 34. Challenging the legality of the conviction and sentence, Crl.A.No.718 of 2019 has been filed and pending disposal of the same, filed this petition for suspension of substantive sentence of imprisonment.

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

2. Mr.R.Karthik, learned counsel appearing for the petitioner would submit that the motive projected by the prosecution for the commission of offence is that A1 was initially in love with A2 and despite that she was given marriage to the deceased and however, she continued relationship with A2 and services of hirelings were engaged and the accused have conspired together and caused the death of the husband of the A1, in morning hours on 10.11.2014. It is the submission of the learned counsel appearing for the petitioner that the case of the prosecution rests upon circumstantial evidence and the prosecution has miserably failed to prove the chain of circumstances in connecting the petitioner / A1 with the commission of offence and he would further add that there were very many improvements made during the course of oral testimonies by the concerned witnesses especially by P.W.6. It is also brought to the knowledge of this Court by the learned counsel appearing for the petitioner that A2 filed Crl.A.No.717 of 2018 and Crl.M.P.No.15191 of 2018 for suspension of substantive sentence of imprisonment and this Court vide order dated 11.12.2018 has suspended the substantive sentence of imprisonment imposed against him as well as against some of the other accused and since, the petitioner / appellant is having bright chance of success in the criminal appeal, prays for suspension of substantive sentence of imprisonment.

3. *Per contra*, Mr.R.Prathapkumar, learned Additional Public Prosecutor appearing for the State would submit that the prosecution has amply proved the motive through the testimonies of P.W.s 1 to 3 and the presence of A1 / wife of the deceased is also spoken to by P.W.s 8 and 9, who are their own children as well as by P.W.6 and it is also amply supported by the scientific evidence and since the chain of circumstances projected by the prosecution is complete in all response, the Trial Court has rightly reached a conclusion and imposed the sentence, accordingly prays for dismissal of this petition.

4. This Court has carefully considered the rival submission and also perused the materials placed before it.

5. A perusal of the materials especially the FIR marked as P.W.39 would disclose that A1 called P.W.6 on the ground that the door was found locked inside and when he came and open, she went outside and she found the body of the deceased lying in a pool of blood. P.W.6 in the chief examination would depose that the A1 called him on the ground that the door was locked outside and when he asked for a key, she stated that the key would be near the pillow of Thangarasu (Deceased). When he went their, A1 opened the door from inside and came out. PW30 was questioned in that regard and in his cross examination, he would depose that P.W.6 during the course of investigation, did not state so. Though the children of the deceased and A1 would depose about the acquittance between A1 & A2 and the happenings that took place on the fateful day, P.W.32, one of the Investigating Officer was questioned and in his cross examination would also disclose that the children of A1 who were examined as P.W.s. 8 and 9 made specific improvements from that of the submission

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

recorded during the investigation.

6. Though the prosecution made attempt to state that just prior to the occurrence, there was an exchange of cellphone calls between the Accused A1 and A2, the fact remains that the necessary certification as contemplated under Section 67-B of the Indian Evidence Act have not been produced and the said fact has also been recorded by the Trial Court in Paragraph No.24 of the impugned judgment. The sentence imposed upon A2, who almost stand on a similar footing has been suspended by this Court, vide order dated 11.12.2018 in Crl.M.P.No.15191 & 15196 of 2018.

7. In the light of the above facts and circumstances and reasons assigned above, this Court is of the opinion that it is a fit case wherein the sentence imposed upon A1 is to be suspended, pending disposal of the appeal.

8. In the light of the above said fact, this Court is of the considered view that the petitioner / accused no.1 is entitled for suspension of substantive sentence of imprisonment and **accordingly, this petition is ordered** and the substantive sentence of imprisonment imposed on the petitioner, is suspended subject to the condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties in a like sum to the satisfaction of the learned III rd Additional District and Sessions Judge, Cuddalore at Vriddhachalam and he shall appear before the said Court on the first working day of every English calendar month at 10.30 a.m until further orders.

-sd/-

08/03/2019

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.

WEB COPY

TO

1 THE IIIIRD ADDITIONAL DISTRICT
AND SESSIONS JUDGE, CUDDALORE AT
VRIDDHACHALAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, VELLORE.

3 THE PUBLIC PROSECUTOR

HIGH COURT, MADRAS.

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

4 THE INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
THITTAKUDI TALUK,
CUDDALORE DISTRICT.

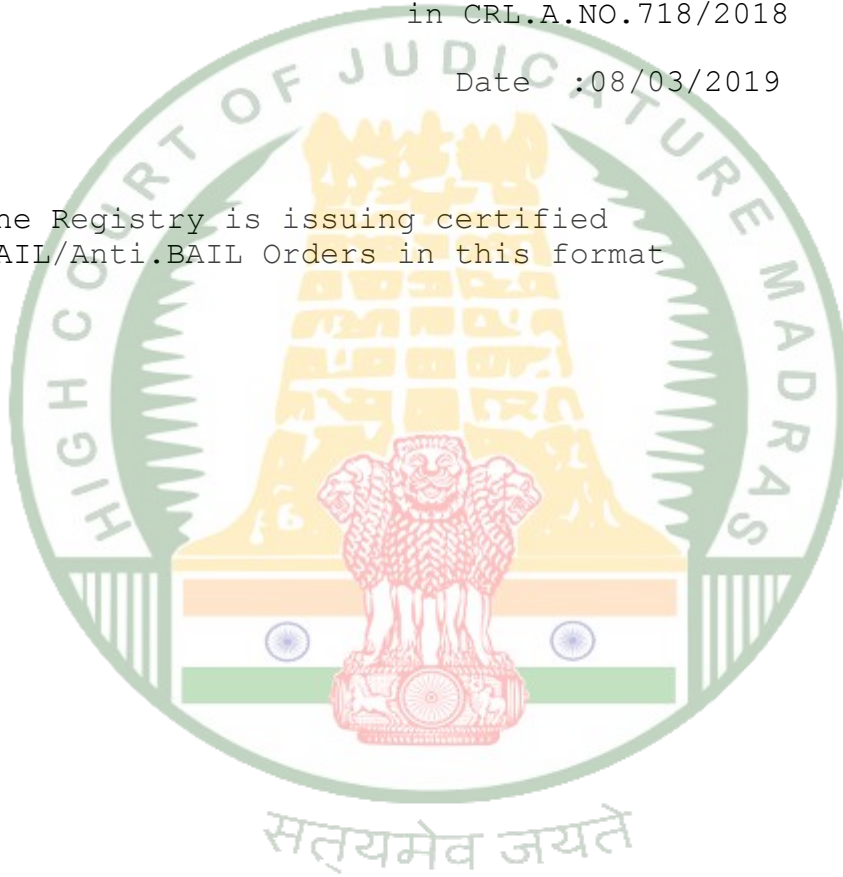
+1 C.C. to M/S.CT.MURUGAPPAN Advocate on payment of necessary
charges-Sr.4952

Order

in
CRL MP.3471/2019
in CRL.A.NO.718/2018

Date :08/03/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 12.03.2019



WEB COPY