

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Second day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.4918 of 2019

IN CRL.A.NO.196 OF 2018

TAMIL SELVAN

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
SETHIYATHOPE POLICE STATION,
CUDDALORE DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.196/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed through order dated 20.11.2017 against the petitioner S.C.No.216 of 2015 through its Judgment on the file of II Additional District and Sessions Judge, Chidambaram and enlarge him on bail, pending Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.196/2018 on the file of the High Court and upon hearing the arguments of M/S.W.M.ABDUL MAJEED Advocate for the petitioner and of MR. C.IYYAPPARAJ, 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 is the sole accused in S.C. No. 216 of 2015 on the file of the II Additional District and Sessions Court, Chidambaram. He has been convicted by the Trial Court for the offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1000/-, in default to undergo six months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The petitioner is none other than the elder son of the deceased. The case of the prosecution is that due to the family dispute which has arisen over the division of property and in pursuance of the wordy quarrel, the petitioner attacked the deceased with wooden log and committed the offence.

3.The learned counsel appearing for the petitioner submits that the petitioner has been in incarceration from the year 2016 onwards. The offence punishable under Section 302 IPC is not made out. There are arguable points available in the appeal. Therefore, the suspension of sentence petition will have to be allowed.

4.The learned Additional Public Prosecutor submits that P.W.1 and P.W.2 are the eye witnesses. P.W.1 is the son and P.W.2 is the wife of P.W.1. The trial Court considered the materials available on record and convicted the petitioner. Hence, the petition will have to be dismissed.

5. We do find substantial issues involved, especially, as to whether the offence punishable under Section 302 IPC would attract as against 304(i) I.P.C. The petitioner has been under incarceration for about three years now. In fact, he has been under judicial custody after the issuance of non-bailable warrant pending trial. Considering the same, we are inclined to grant suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended on condition 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 II Additional District and Sessions Judge, Chidambaram and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

02/07/2019

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

TRUE COPY

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

TO

1 THE II ADDITIONAL DISTRICT
AND SESSIONS COURT, CHIDAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SETHIYATHOPE POLICE STATION,
CUDDALORE DISTRICT.

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

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5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

+1 C.C. to M/S.W.M.ABDUL MAJEED Advocate on payment of
necessary charges SR.NO. 13167

Order

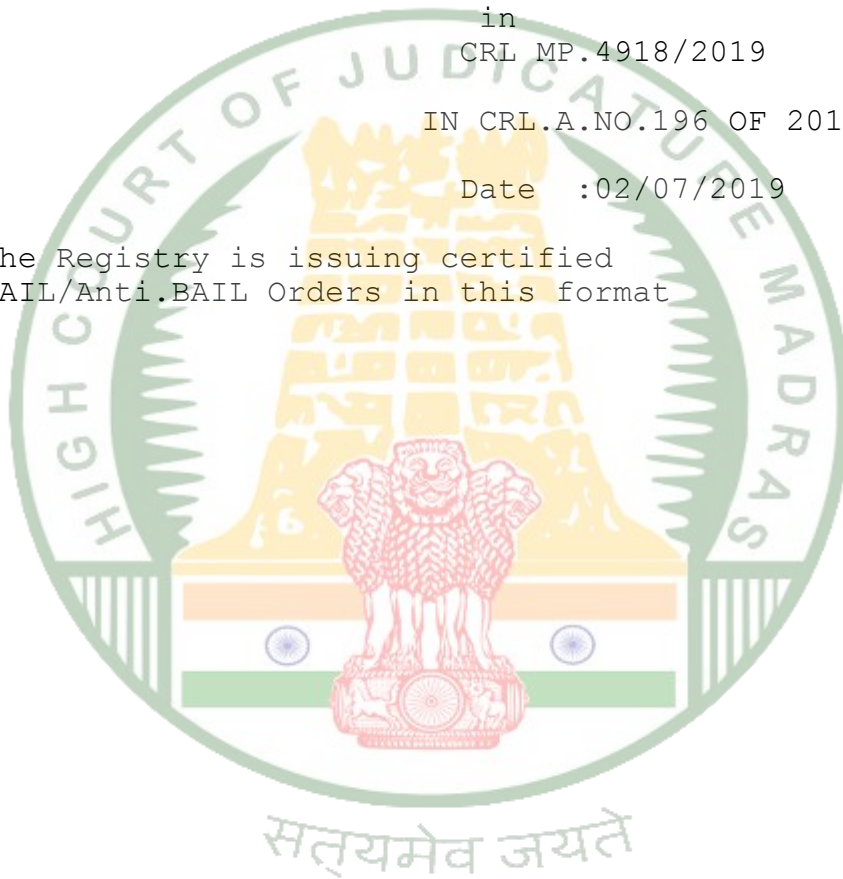
in

CRL MP.4918/2019

IN CRL.A.NO.196 OF 2018

Date :02/07/2019

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RD 02/07/2019



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