

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twelfth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.4436 of 2019

in CRL.A.No.167 of 2019

RAMAN

[APPELLANT/ ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
AMARAVATHI POLICE STATION,
TIRUPPUR DISTRICT
CRIME NO.95 OF 2016.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.167 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in SC.No.173 of 2016 passed by the Learned III Additional District and Sessions Judge, Dharapuram by a judgment dated 31.01.2019 and enlarge the petitioner on bail pending disposal of the above CRL.A.No.167 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.167 of 2019 on the file of the High Court and upon hearing the arguments of MR.A.M.RAHAMATH ALI for M/S.K.BALASUBRAMANIAM, 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.SATHYANARAYANAN, J.]

The petitioner / appellant is the sole accused in SC.No.173/2016 on the file of the Court of Additional District and Sessions Judge, Dharapuram and vide impugned judgment dated 31.01.2019, he was found guilty for the commission of the offence u/s.302 IPC and was to undergo rigorous imprisonment for life. Set-off was also granted to him u/s.428 Cr.P.C. Challenging the said conviction and sentence, the petitioner/appellant preferred the present appeal and pending appeal, he had filed the present petition seeking suspension of the substantive sentence of imprisonment.

2 The learned counsel appearing for the petitioner/appellant has drawn the attention of this Court to the testimonies of P.Ws.5 and 6 and the impugned judgment and would submit that both of them said to have been seen the petitioner/appellant carrying on the weapon [M.O.10] immediately after the occurrence and though they became aware of the fact of the death of the deceased, they did not lodge a complaint and their testimonies are highly artificial and except the alleged arrest, confession and recovery, nothing incriminating has been made out to connect the petitioner/appellant with the commission of the crime. Since the case projected by the prosecution bristles with very many infirmities and inconsistencies, the petitioner/appellant is having a bright chance of success in this appeal and hence, prays and prays for suspension of the substantive sentence of imprisonment.

3 *Per contra*, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State would submit that the prosecution was able to prove the chain of all circumstances in complete form and the Trial Court by citing tenable reasons, has rightly convicted and sentenced the petitioner/appellant and prays for dismissal of this petition.

4 This Court has carefully considered the rival submissions and also perused the materials placed before it including the impugned judgment.

5 Admittedly, the deceased and the petitioner/appellant are friends and the deceased said to have advanced a sum of Rs.5000/- to the petitioner/appellant and on the fateful day of occurrence, the deceased demanded the said sum and since it was not given, the deceased asked the petitioner/appellant to send his wife and enraged by the same, the petitioner/appellant took a decision to do away with the life of the deceased and accordingly, committed the murder at the early morning hours at about 3.30 a.m., on 28.07.2016. P.Ws.5 and 6 are related to the deceased and according to them, at or about the time, they saw the petitioner/appellant carrying the weapon and moving away and both of them would depose that they did not notice whether the weapon was tainted with blood stains or not? A perusal of paragraph NO.36 of the impugned judgment would also disclose that the Trial Court has placed reliance upon the full portion of the confession said to have been given by the petitioner/appellant and in the considered opinion of the Court, the same is against the settled position of law. As rightly pointed out by the learned counsel for the petitioner/appellant, except the alleged arrest, confession and recovery, nothing incriminating has been produced by the prosecution to connect the petitioner/appellant with the commission of the crime. This Court, is *prima facie* of the view that the petitioner/appellant is entitled for suspension of the substantive sentence of imprisonment pending this appeal.

6 In the result, the petition is **ordered** and the substantive sentence of imprisonment alone in respect of the petitioner/appellant is suspended and the petitioner/appellant directed to be enlarged on bail on condition that the petitioner/appellant shall execute 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 learned Judicial Magistrate, No.I, Udumalpet and on further condition that the petitioner/appellant shall appear before the Committal Court, viz., the Court of Judicial Magistrate, No.1, Udumalpet [PRC.No.14/2016] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

-sd/-
12/04/2019

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 JUDICIAL MAGISTRATE NO.I
UDUMALPET, TIRUPPUR DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARAPURAM

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

5 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS

सत्यमेव जयते
WEB COPY

6 THE INSPECTOR OF POLICE,
AMARAVATHI POLICE STATION,
TIRUPPUR DISTRICT

+1 C.C. to M/S.K.BALASUBRAMANIAM Advocate on payment of
necessary charges SR.NO.7658

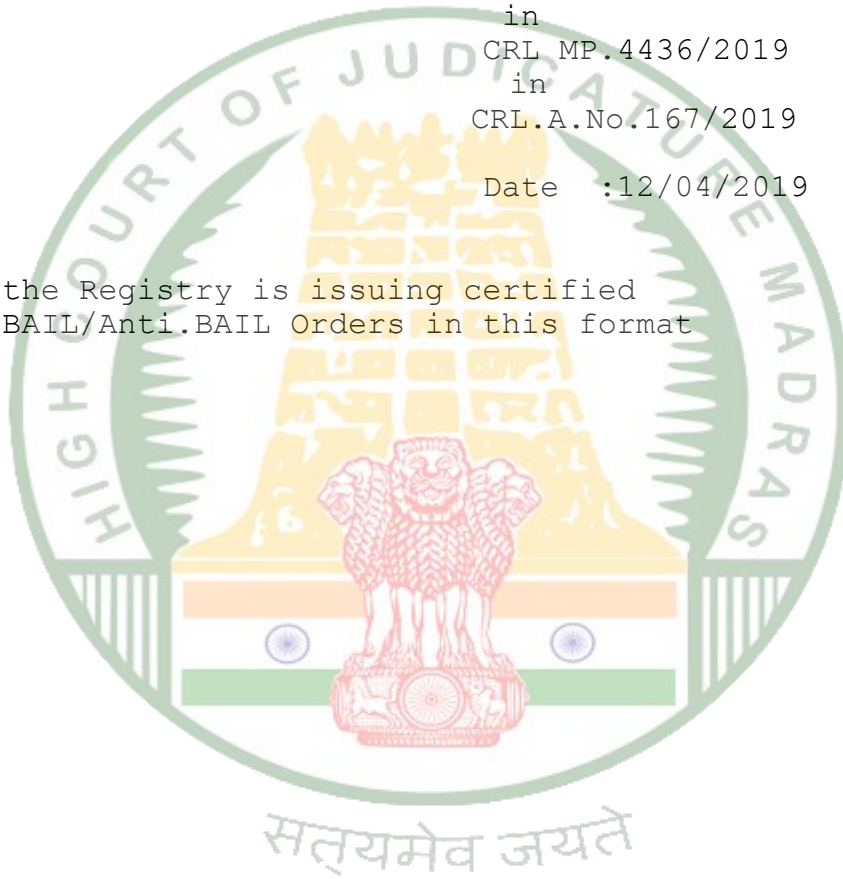
Order

in
CRL MP.4436/2019
in
CRL.A.No.167/2019

Date :12/04/2019

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cm 16/04/2019



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