

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION Nos.6410 and 6415 of 2019

in CRL R.C.Nos.405 and 406 of 2019

DEEPA

[PETITIONER

in CRL.M.P.No.6410 of 2019]

M.NATESAN

[PETITIONER

in CRL.M.P.No.6415 of 2019]

Vs

THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
SALEM

[RESPONDENT

in both petitions]

Petition praying that in the circumstances stated therein the High Court will be pleased to

(i) suspend the sentence imposed on the petitioner in CRL.A.Nos.77 & 78 of 2017 dated 30.01.2019 by the III Additional Sessions Court, Salem confirming the judgment passed in C.C.No.151 of 2010 dated 14.06.2017 by the Judicial Magistrate Court, Omalur pending disposal of the above CRL.R.C.Nos.405 & 406 of 2019 [CRL.M.P.Nos.6410 & 6415 of 2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.S.B.VISWANATHAN, Advocate for the petitioners, in both petitions and of MRS.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent, in both petitions the court made the following order:-

These Criminal Revision petitions have been filed as against the Judgment passed by the learned III Additional Sessions Court, Salem in Crl.A.No.77 and 78 of 2017 dated 30.01.2019, confirming the judgment of conviction and sentence passed by the learned Judicial Magistrate Court, Omalur, in CC No.151 of 2010 dated 14.06.2017. The offences for which the accused persons, who are A9 and A11 were convicted and sentenced, are detailed as follows :-

(a) All the 11 accused were sentenced to undergo two years imprisonment for the offence under Section 120(b) of IPC.

(b) All the 11 accused were sentenced to undergo one year imprisonment for the offence under Section 465 of IPC.

(c) All the 11 accused were sentenced to undergo 3 years imprisonment and imposed a fine of Rs.2,000/- each in default to undergo 2 months imprisonment for the offence under Section 468 of IPC.

(d) All the 11 accused were sentenced to undergo 1 year imprisonment and imposed a fine of Rs.2,000/- each in default to undergo 2 months imprisonment for the offence under Section 471 of IPC.

(e) All the 11 accused were sentenced to undergo 3 months imprisonment and imposed a fine of Rs.2,000/- each in default to undergo 2 months imprisonment for the offence under Section 420 of IPC.

2. The learned counsel for the petitioners submitted that the substantive rights of the parties is already a subject matter of dispute before the Competent Civil Court in O.S.No.305 of 2008, pending on the file of the the learned District Munsif Court, Omalur. That apart, PW1 to PW5 have also filed a Civil Suit against A1 to A9 in O.S.No.289 of 2008 before the same Court and the same is also pending. A dispute which is predominantly civil in nature has been given a Criminal colour and the Court below has failed to take this vital aspect into consideration. The learned counsel for the petitioners further submitted that the petitioners are bonafide purchasers of the property and Ex.D9 which is the Encumbrance certificate clearly shows that there was no encumbrance for 23 years. The learned counsel further submitted that there was no material to show any Criminal intent on the part of the petitioners at the time, when the Sale deed was executed. The learned counsel appearing for the petitioners submitted that the petitioners have a fair chance of success in the appeals and there are arguable points involved in the Appeals. The learned counsel further submitted that the petitioners have already deposited a fine amount of Rs.6000/- each at the time of filing the appeals.

3. The learned Additional Public Prosecutor submitted that the Court below has appreciated the entire evidence and has given elaborate reasons for convicting and sentencing the petitioners.

4. This Court carefully considered the submissions made on either side.

5. Considering the facts and circumstances of the case and in view of the fact that there are arguable points which require a consideration in the appeals and the appeals cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below.

4. The sentence imposed by the Court below vide Judgment made in C.C No.151 of 2010 dated 14.06.2017 on the file of learned Judicial Magistrate Court, Omalur, is hereby suspended for the petitioners, on condition that each of the petitioner 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 Court, Omalur and to appear before the learned Judicial Magistrate Court, Omalur on the first working day of every week at 10.30 a.m., until further orders.

-sd/-

08/05/2019

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,
OMALUR, SALEM DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE III ADDITIONAL SESSIONS COURT,
SALEM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
SALEM

+1 C.C. to M/S.S.B.VISWANATHAN Advocate on payment of necessary
charges SR.NO.9277

Order

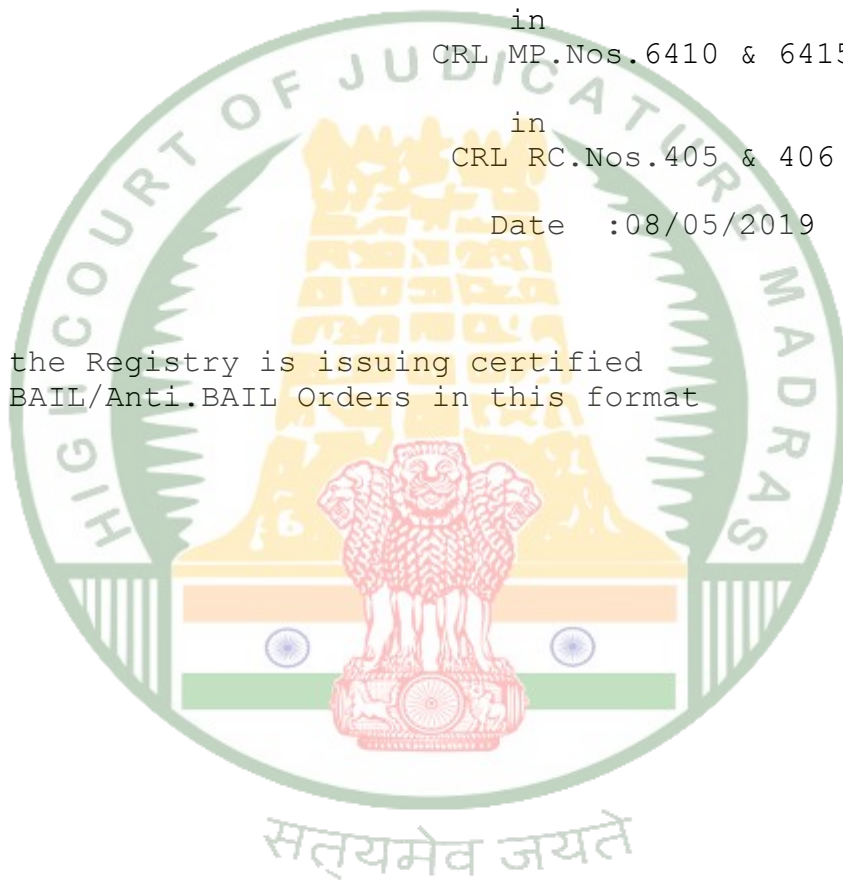
in
CRL MP.Nos.6410 & 6415 of 2019

in
CRL RC.Nos.405 & 406 of 2019

Date :08/05/2019

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

cm 10/05/2019



WEB COPY