

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 No.6472 of 2019

IN CRL RC.417/2019

ESWARI

[PETITIONER/APPELLANT
SINGLE ACCUSED]

Vs

THE STATE REP. BY
THE SUB INSPECTOR OF POLICE,
RAILWAY PROTECTION FORCE,
JOLARPETTAI,
VELLORE DISTRICT.
(CRIME NO.7/2014)

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed by the Learned Judicial Magistrate No.I, Thiruppathur, Vellore District in C.C.No.118/2014 dated 29.09.2016 and confirmed by the Learned III Additional Sessions Judge, Vellore @ Thiruppathur, Vellore District in Crl.A.No.16 OF 2016 dated 19.03.2019 pending disposal of the Crl.R.C.No.417 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.E.KANNADASAN, Advocate for the petitioner, and of MRS. M.PRABHAVATHI, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

This criminal revision petition has been filed against the judgment of the learned III Additional Sessions Judge, Vellore at Thiruppathur, Vellore, Vellore District in Crl.A.No.16 of 2016, dated 19.03.2019 confirming the judgment of the learned Judicial Magistrate No.I, Thiruppathur, Vellore District, dated 29.09.2016, convicting the petitioner for the offence under Section 3(b) of the Railway Property (Unlawful Possession) Act, 1966 and sentencing her to undergo simple imprisonment for three months with a fine of Rs.1000/- in default to undergo simple imprisonment for one month. Pending revision, the petitioner has filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2.The learned counsel for the petitioner submitted that there is material contradiction in the evidence of P.W.1, P.W.2 and P.W.4 regarding the preparation of Ex.P1, seizure mahazar. The learned counsel further submitted that there was nothing to show that M.O.2 belongs to the Railways, more particularly, since there was no complaint from the Railways about the missing of M.O.2. The learned counsel further submitted that the petitioner has already deposited the entire fine amount at the time of filing the revision.

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 petitioner.

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 revision and the revision cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below.

6.The sentence imposed by the Court below, vide Judgment made in Crl.A.No.16 of 2016, dated 19.03.2019, on the file of the learned III Additional Sessions Judge, Vellore at Thiruppathur, Vellore, Vellore District, confirming the judgment of the learned Judicial Magistrate No.I, Thiruppathur, Vellore District in C.C.No.118 of 2014, dated 29.09.2016, is hereby suspended, and the petitioner is directed to be enlarged on bail, on condition that 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 No.I, Thiruppathur, and shall appear before the said learned Judicial Magistrate every week on Monday 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

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TRUE COPY

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

TO

1 THE III ADDITIONAL SESSIONS
JUDGE, VELLORE AT THIRUPPATHUR,
VELLORE DISTRICT.

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

2 THE JUDICIAL MAGISTRATE,
NO.I, THIRUPPATHUR.

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

4 THE SUB INSPECTOR OF POLICE,
RAILWAY PROTECTION FORCE,
JOLARPETTAI,
VELLORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.E.KANNADASAN Advocate on payment of necessary
charges SR.NO.9383

Order

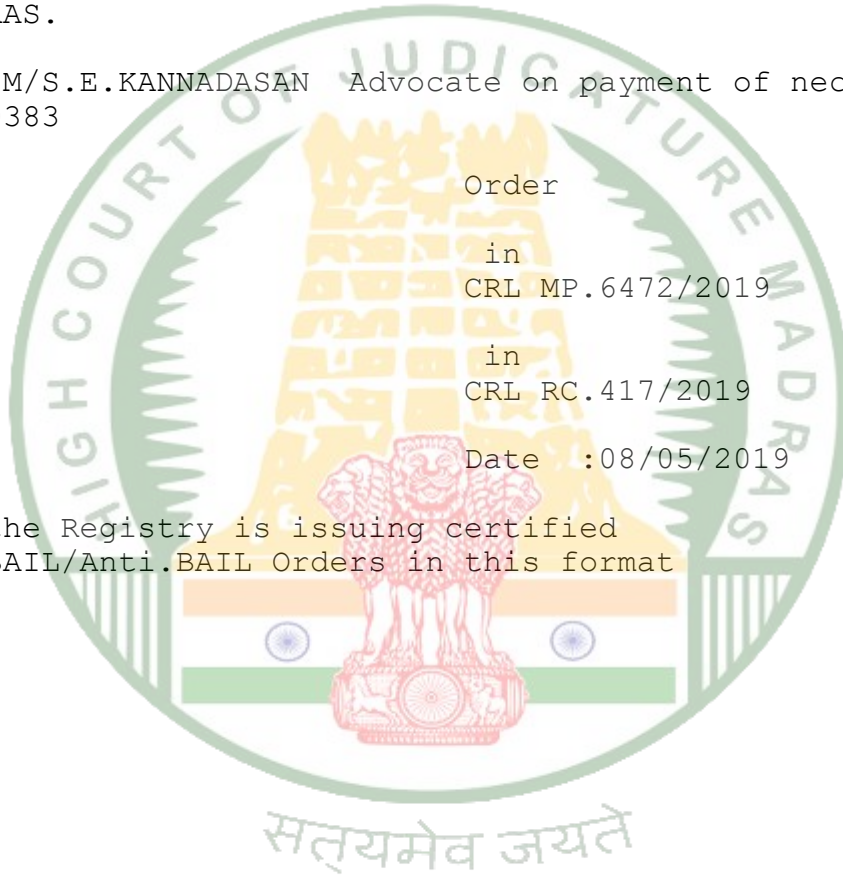
in
CRL MP.6472/2019

in
CRL RC.417/2019

Date :08/05/2019

From 7.2.2001 the Registry is issuing certified
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TA-10/05/2019



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