

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Ninth 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.7487 of 2019

in CRL.A.NO.331 OF 2019

SAKTHIVEL @ SATHIYARAJ [PETITIONER]

Vs

THE INSPECTOR OF POLICE [RESPONDENT]
KOTTAKUPPAM POLICE STATION,
KOTTAKUPPAM CIRCLE,
VILLUPURAM DISTRICT.
CR.NO.361 OF 2013

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.331/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment passed by the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Villupuram in SC No.109 of 2014 dated 24.04.2015 pending disposal of the appeal

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.331/2019 on the file of the High Court and upon hearing the arguments of M/S.R.GANESH BABU Advocate for the petitioner and of MR.R.PRATHAP KUMAR Additional 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. 109 of 2014. The deceased was none other than the wife of the petitioner. The Fast Track Mahila Court, Villupuram, by judgment, dated 24.04.2015, convicted the petitioner for the offence punishable under Section 294 (b) IPC and sentenced to undergo rigorous imprisonment for three months and for the offence under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for a period of one year and for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, sentenced to undergo one year simple imprisonment and the sentences are ordered to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2. The learned counsel appearing for the petitioner submits that based upon the dying declaration, the conviction has been rendered by the trial Court. The petitioner has got valuable points in the appeal. The petitioner made an attempt to save the deceased. He has been in incarceration for more than four years. Thus, the suspension of sentence petition will have to be allowed.

3. The learned Additional Public Prosecutor appearing for the respondent submitted that the dying declaration is against the petitioner. The statement has been recorded under Section 164 Cr.P.C also in tune with the earlier dying declaration given. There is an evidence of P.W.6, which incriminates the petitioner. Therefore, the suspension of petition will have to be dismissed.

4. We do find arguable points involved in the appeal. The petitioner has been under incarceration for more than four years.

5. Considering the above, the substantive sentence of imprisonment alone is suspended on condition that 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 District Munsif cum Judicial Magistrate, Vannur 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/-
09/07/2019

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.

सत्यमेव जयते

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, VANNUR

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM[FOR INFORMATION]

3 THE SESSIONS JUDGE
MAGALIR NEETHI MANDRAM[FAST TRACK MAHILA COURT,
VILLUPURAM

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

5 THE INSPECTOR OF POLICE
KOTTAKUPPAM POLICE STATION,
KOTTAKUPPAM CIRCLE,
VILLUPURAM DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.R.GANESH BABU Advocate on payment of necessary
charges SR.NO. 13862

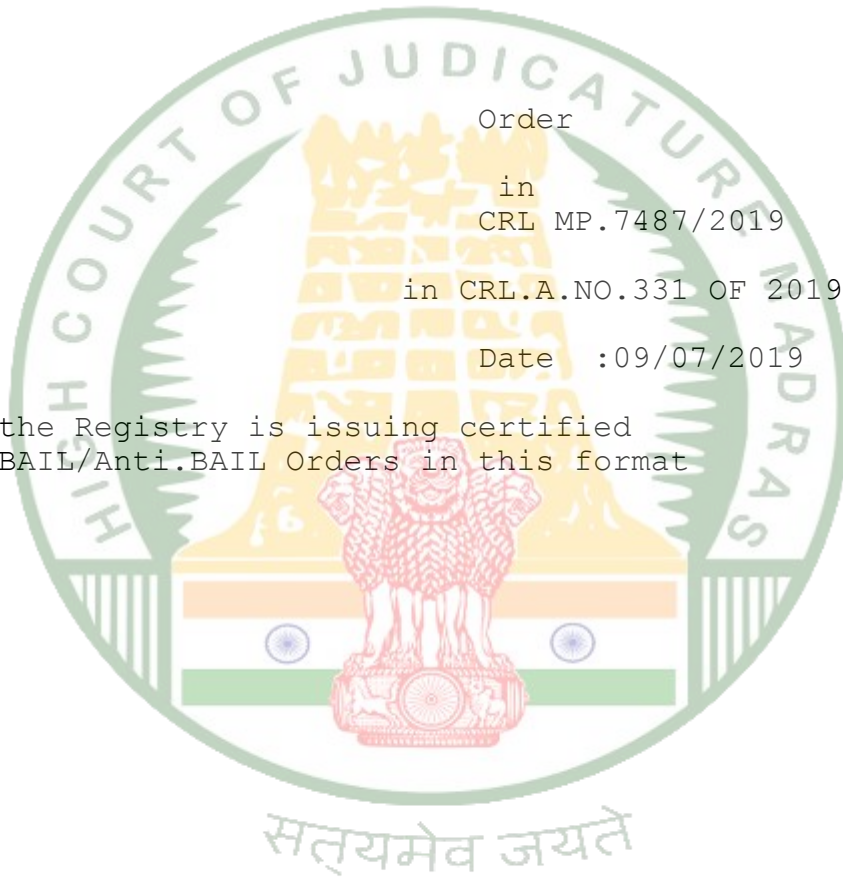
Order

in
CRL MP.7487/2019

in CRL.A.NO.331 OF 2019

Date :09/07/2019

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RD 09/07/2019



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