

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Ninth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.6520 of 2019

in CRL RC.No.424 of 2019

KUMARESAN

[PETITIONER]

vs

STATE REP BY
THE INSPECTOR OF POLICE,
H-1, WASHERMENPET TRAFFIC,
INVESTIGATION WING, CHENNAI.
CRIME NO.178/H1/2014.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.No.424 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Honble II Additional Sessions Judge, Chennai in the judgement dated 08.02.2019 in C.A.No.256 of 2016 confirming the conviction passed by the Learned III Metropolitan Magistrate, George Town in CC No.164 of 2015 dated 16.09.2016 and enlarge the petitioner on bail pending disposal of this main revision in CRL RC.No.424 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.No.424 of 2019 on the file of the High Court and upon hearing the arguments of R.GANESH KUMAR, Advocate for the petitioner, and of MRS.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent, the court made the following order:-

The Criminal Revision has been filed as against the Judgment passed by the learned II Additional Sessions Judge, Chennai, made in Crl.A.No.256 of 2016 dated 08.02.2019, confirming the conviction and modifying the sentence passed by the learned III Metropolitan Magistrate, George Town, made in C.C.No.164 of 2015 dated 16.09.2016 for an offence u/s 304 A to undergo S.I. for a period of 6 months and to pay a fine amount of Rs.2,000/- and in default to undergo S.I for 1 month and rigorous imprisonment for period of 3 months and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month for offence under Section 338 IPC (2 counts) and to pay a fine

of Rs.5000/- in default to undergo simple imprisonment for one month for offence under Section 337 IPC (3 counts), to pay a fine of Rs.1000/- in default to undergo simple imprisonment for a period of two weeks for offence under Section 184 of MV Act. Pending appeal, the petitioner has filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2. The learned counsel for the petitioner submitted that the prosecution has not even proved the presence of the petitioner at the time of the accident. The learned counsel further submitted that there was no proof to show that the petitioner was driving the vehicle in a rash and negligent manner and the Court below came to the conclusion by merely by relying upon the evidence of PW-9. The learned counsel also submitted that the fine amount has already been paid by the petitioner at the time of filing of the appeal.

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 requires 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 C.C.No.164 of 2015 dated 16.09.2016, on the file of the learned III Metropolitan Magistrate, George Town, is hereby by suspended, 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 III Metropolitan Magistrate, George Town and to appear before the learned III Metropolitan Magistrate, George Town on the first working day of every week at 10.30 a.m., until further orders.

-sd/-

09/05/2019

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 METROPOLITAN MAGISTRATE NO.III,
GEORGE TOWN, CHENNAI

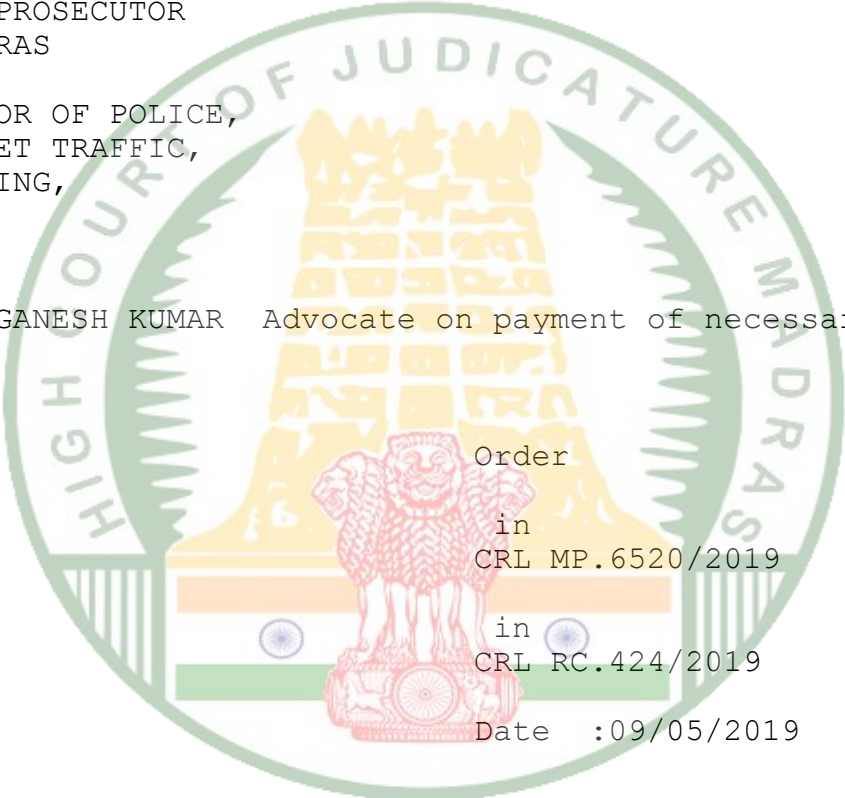
2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE II ADDITIONAL SESSIONS JUDGE,
CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS

5 THE INSPECTOR OF POLICE,
H-1, WASHERMENPET TRAFFIC,
INVESTIGATION WING,
CHENNAI

C.C. to R.GANESH KUMAR Advocate on payment of necessary charges

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion standing in front of it. The lion is facing left and is positioned on a base that resembles the Ashoka Lion Capital. The background of the seal is green with white wavy lines. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the central image. Below the lion, the Indian national flag (saffron, white, and green) is visible. The text "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script at the bottom of the seal.

Order
in
CRL MP.6520/2019
in
CRL RC.424/2019
Date :09/05/2019

From 7.2.2001 the Registry is issuing certified
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cm 14/05/2019

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