

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Seventh day of August 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.6687 of 2019

and CRL.A.NO.281 OF 2019

MOHAMMED SYED

[PETITIONER/APPELLANT/ACCUSED]

Vs

1 STATE OF TAMIL NADU REP.BY
THE INSPECTOR OF POLICE,
PERNAMBUT POLICE STATION,
PERNAMBUT, VELLORE DISTRICT.
(FIR NO.141 OF 2018)

[RESPONDENT/RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.281 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed the SC.No.45 of 2019 by Judgment dated 29.04.2019 on the file of the learned Additional District and Sessions Judge(FTC), Vellore and to enlarge him on bail.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.281 of 2019 on the file of the High Court and upon hearing the arguments of M/S.M.R.THANGAVEL, Advocate for the petitioner and of MR.C.IYYAPPARAJ, 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.45 of 2019 on the file of learned Additional District and Sessions Judge (FTC), Vellore. The trial Court by judgment dated 29.04.2019 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/- in default, to undergo rigorous imprisonment for one year. Seeking suspension of sentence, the present petition has been filed.

2. The petitioner is none other than the husband of the deceased. The case of the prosecution is that the petitioner poured kerosene and lit fire on the deceased, who succumbed to injuries.

3. The learned counsel appearing for the petitioner would submit that three dying declarations. The earliest version given before the police is one of self immolation indicating that the FIR itself has been registered on that basis. Therefore, subsequent dying declarations ought not to have been taken into consideration by the trial Court. Thus, the sentence of the petitioner will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State would submit that though there are three dying declarations given, the subsequent one given were cogent and therefore, the Court found them to be reliable as against the earlier one. Thus, the petition will have to be dismissed.

5. Admittedly, there are three dying declarations given. The earliest version was to the effect that the deceased poured kerosene by herself and lit fire. Therefore, it was a case of self-immolation. The FIR itself has been registered based on the aforesaid statement. It is the petitioner, who admitted the deceased in the hospital.

6. Considering the above, we do find arguable points available in the appeal and we are inclined to suspend the sentence. Accordingly, 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 the learned Additional District and Sessions Judge, Vellore and on further condition that the petitioner shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

27/08/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

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TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, (FAST TRACK COURT) VELLORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, VELLORE.

4 THE INSPECTOR OF POLICE,
PERNAMBUT POLICE STATION,
PERNAMBUT, VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

C.C. to M/S.M.R.THANGAVEL Advocate on payment of necessary
charges SR.NO.17859

Order

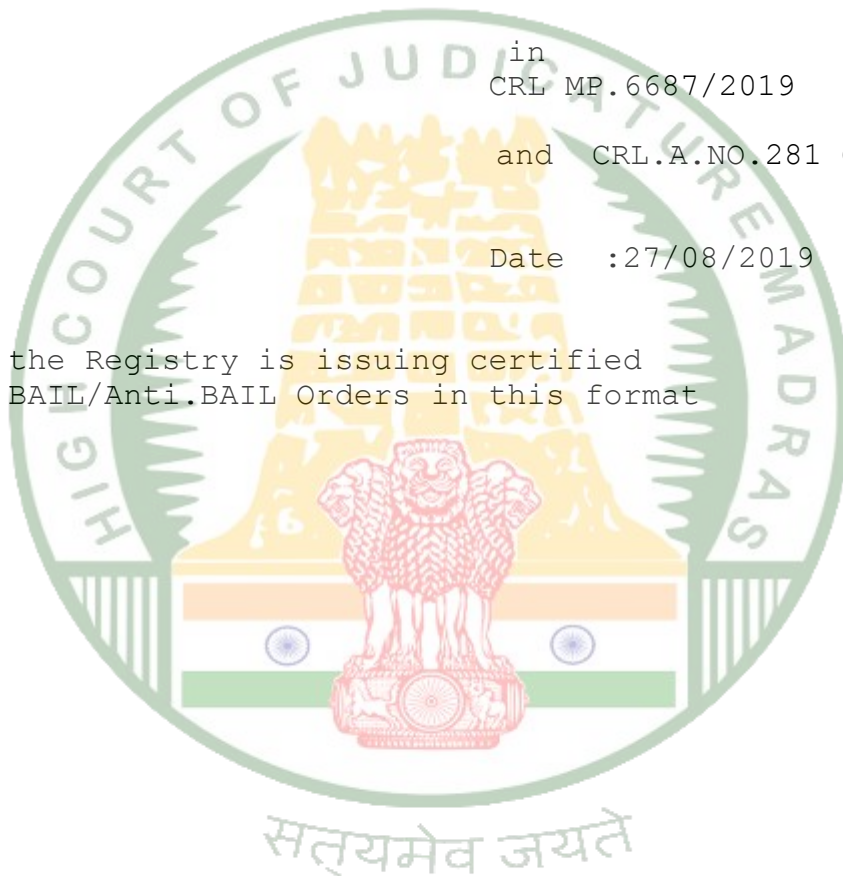
in
CRL MP.6687/2019

and CRL.A.NO.281 OF 2019

Date :27/08/2019

From 7.2.2001 the Registry is issuing certified
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RVR 28/08/2019



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