

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirty First 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.9507 of 2019

IN CRL.A.NO.242 OF 2019

MUNIYAN

[PETITIONER]

Vs

STATE BY
INSPECTOR OF POLICE,
BAGAYAM POLICE STATION,
VELLORE DISTRICT.
(CR.NO.351 OF 2017)

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.242 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on him by the learned Additional District and Sessions Judge, Vellore, Vellore dt by judgment dt 02.03.2019 and made in SC No.62 of 2018 and enlarge him on bail pending disposal of the abvoe Crl.A.242/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.242 of 2019 on the file of the High Court and upon hearing the arguments of M/S.K.S.RAJAGOPALAN, Advocate for the petitioner and of MR.R.PRATHAP KUMAR, GOVERNMENT ADVOCATE (CRL.SIDE) 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. 62 of 2018 on the file of the Additional District and Sessions Judge (FTC), Vellore. The trial Court, by judgment, dated 02.03.2019 convicted the petitioner for the offence punishable under Sections 302 and 201 IPC and for the offence punishable under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months rigorous imprisonment and for the offence punishable under Section 201 IPC, sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo six months rigorous imprisonment and the sentences are ordered to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2. The petitioner is none other than the father of the deceased. The case of the prosecution is that the deceased came to the house of the petitioner in a drunken mood and there was a wordy quarrel. Pursuant to the wordy quarrel, the petitioner committed the offence.

3. The learned counsel appearing for the petitioner would submit that there are no eye witnesses available. Even P.W.5 and P.W.6, whose statements have been recorded under Section 164 Cr.P.C., turned hostile. Mere recovery itself cannot be a sole ground when the same is under serious doubt. Therefore, this petition will have to be allowed.

4. The learned Additional Public Prosecutor would submit that inasmuch as recovery was made, the Trial Court has rightly relied upon the same while convicting the petitioner. Thus, this petition will have to be dismissed.

5. We are dealing with a case of circumstantial evidence. All the eye witnesses turned hostile except the official witnesses. Thus, we do find that the petitioner has got substantial points in the appeal especially when the occurrence is stated to have taken place in pursuance of the wordy quarrel between the petitioner, who is the father of the deceased and the deceased.

6. Considering the above coupled with the fact that there are valuable points available in the appeal, 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 Judicial Magistrate No.I, Vellore, Vellore District 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/-

31/07/2019

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.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, VELLORE, VELLORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
BAGAYAM POLICE STATION,
VELLORE DISTRICT.

5 THE ADDITIONAL DISTRICT
AND SESSIONS JUDGE (FTC), VELLORE.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S.K.S.RAJAGOPALAN Advocate on payment of necessary
charges Sr.15823

Order

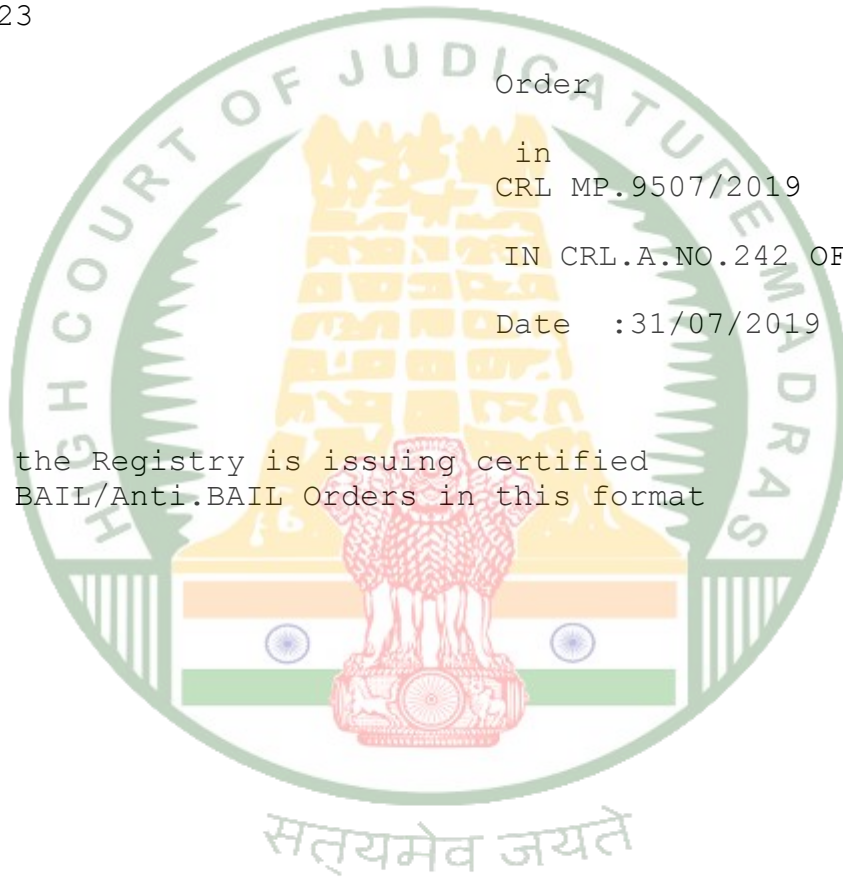
in
CRL MP.9507/2019

IN CRL.A.NO.242 OF 2019

Date :31/07/2019

From 7.2.2001 the Registry is issuing certified
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RVR 01/08/2019



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