

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.10141 of 2019

and CRL.A.NO.693 OF 2018

RAJINI

[PETITIONER]

Vs

THE STATE REP. BY [RESPONDENT]
THE INSPECTOR OF POLICE,
TIRUPATTUR TALUK POLICE STATION,
VELLORE DISTRICT,
CRIME NO.17 OF 2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.NO.693 of 2018 on the file of the High Court, the High Court will be pleased to suspend the order of sentence passed by the Learned Sessions Judge, Magalir Neethimandaram (Fast Track Mahila Court) Vellore made in S.C.No.32 of 2014 dated 10.07.18 and grant bail to the petitioner pending disposal of the above Crl.Appeal No.693/2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.NO.693 of 2018 on the file of the High Court and upon hearing the arguments of M/S. G.JEREMIAH, 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.32 of 2014 on the file of learned Sessions Judge, Magalir Neethimandaram (Fast Track Mahila Court) Vellore. The trial Court by judgment dated 10.07.2018 convicted the petitioner for the offence punishable under Sections 302 & 307 IPC and for the offence punishable under Section 302 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- in default, to undergo rigorous imprisonment for three months and for the offence punishable under Section 307 IPC sentenced to undergo seven years rigorous imprisonment, and to pay a fine of Rs.2,000/-, in default, to undergo rigorous imprisonment for three months and ordered the sentences to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2. The accused viz., the petitioner and P.W.1 are brothers. There was a prior dispute between the petitioner on the one hand and the deceased and P.W.1 on the other hand with respect to the property purchased by the petitioner from P.W.1. The petitioner has not parted with part of the amount by way of sale consideration. According to the prosecution, the petitioner went to the place of occurrence and attacked the deceased with iron pipe and committed the offence.

3. The learned counsel appearing for the petitioner would submit that even as per the evidence of P.W.15 - Investigating Officer, there was a prior quarrel between the parties. The deceased was bathing P.W.3 who is the injured witness. The water was coming from the house of P.W.1 into that of the appellant. Enraged over the same and pursuant to the quarrel, he attacked with the iron pipe and committed the offence. Therefore, it cannot be the case that fall under Section 302 IPC as against Section 304 Part (I) or Part (II) IPC. Thus, the suspension of sentence will have to be granted.

4. The learned Additional Public Prosecutor appearing for the State would submit that P.W.3 is the injured witness. The motive has also been established. The Doctor who conducted the post-mortem also submitted that the injury sustained was fatal. The trial Court rightly considered this aspect while convicting the petitioner. Thus, the petition will have to be dismissed.

5. Prima facie, we are of the view that the issue to be decided is as to whether the offence committed would come under Section 302 IPC or 304 Part(I) or Part(II) IPC. Thus, we do find arguable points available in the appeal.

6. Considering the above, especially by taking note of the fact the petitioner is under incarceration for more than one year, 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 Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) 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

TRUE COPY

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

TO

1 THE SESSIONS JUDGE,
MAGALIR NEETHIMANDRAM (FAST TRACK MAHILA
COURT) VELLORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TIRUPATTUR TALUK POLICE STATION,
VELLORE DISTRICT.

C.C. to M/S. G.JEREMIAH Advocate on payment of necessary
charges SR.NO.17905

Order

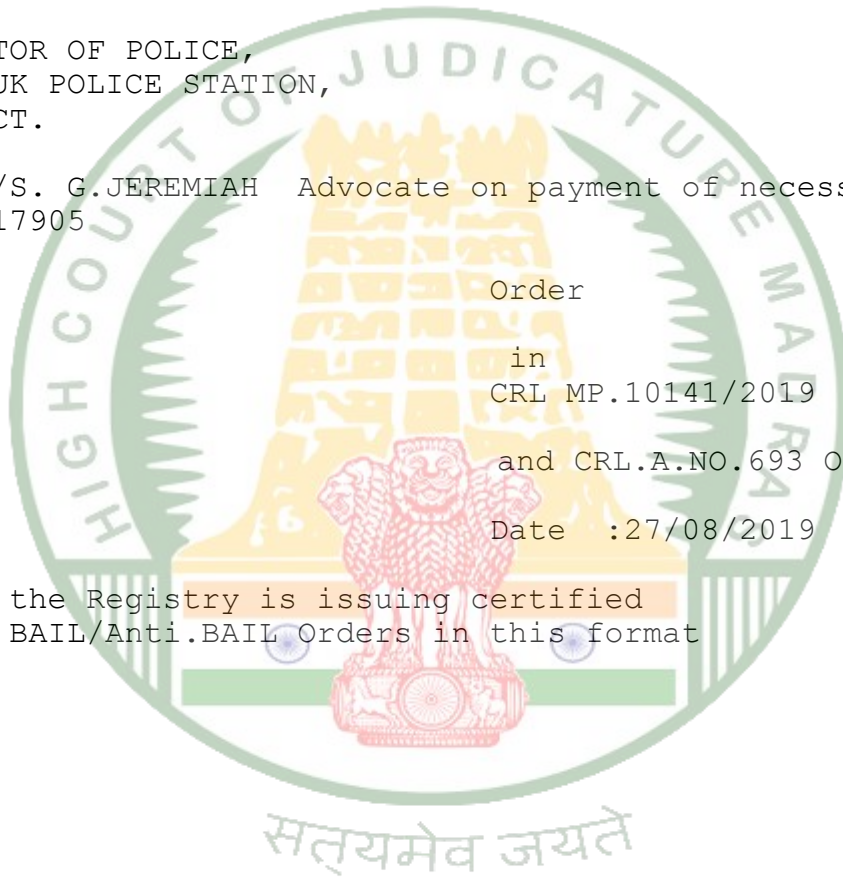
in
CRL MP.10141/2019

and CRL.A.NO.693 OF 2018

Date :27/08/2019

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RVR 28/08/2019



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