

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Tenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.11759 of 2019

IN CRL.A.NO.537 OF 2019

MANIKANDAN

[PETITIONER]

Vs

[RESPONDENT]

THE STATE REP. BY
INSPECTOR OF POLICE,
KANNAKURICHI POLICE STATION,
SALEM,
(CR.NO.473/2014).

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.537/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in S.C.No.85/2015 dated 06.02.2016 on the file of I Additional Sessions Judge at Salem and enlarge the petitioner on bail pending disposal of the above appeal.[CRL.MP.NO.11759/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.537/2019 on the file of the High Court and upon hearing the arguments of M/S.M.SUBASH, Advocate for the petitioner and of MR.K.PRABAKAR 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 has been arrayed as A2 in S.C.No. 85 of 2015 on the file of I Additional Sessions Judge, Salem. The trial Court by judgment dated 06.02.2016 convicted the petitioner for the offence punishable under Sections 120-B, 302 r/w 34 and 506 (ii) r/w 34 IPC and for the offence punishable under Section 120-B IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.1000/-, in default, to undergo six months rigorous imprisonment, for the offence under 302 r/w 34 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.1000/-, in default, to undergo six months rigorous imprisonment and for the offence under Section 506 (ii) r/w 34 IPC, sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.500/-, in default to undergo six months rigorous imprisonment and ordered the sentences to run concurrently. Seeking

to suspend the sentence awarded by the trial Court, the present petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the overt act attributed against the petitioner is that he caught hold of the deceased while A1 attacked and committed the offence. P.W.7 has given a different version earlier to the effect that he did not know who attacked the deceased. The other eye witnesses are interested witnesses. The petitioner has been under incarceration for more than 3 1/2 years. Therefore, the suspension of sentence will have to be granted.

3. The learned Additional Public Prosecutor appearing for the State would submit that the motive has been established. A1 has picked up quarrel with the deceased over the payment of money for the supply of water cans. The eye witnesses clearly spoke about the occurrence. P.W.7 is an independent witness. Therefore, the trial Court has rightly considered the evidence of witnesses and rendered conviction. Therefore, the petition will have to be dismissed.

4. Admittedly, the petitioner has been under incarceration for more than 3 1/2 years. The overt act attributed against him is that he caught hold of the deceased while A1 attacked and committed the offence. Thus, considering the above, particularly the period of incarceration, we are of the view that the petitioner is entitled to suspension of sentence. We also find that there are sufficient grounds involved in the appeal to be adjudicated.

5. Considering the above coupled with the period of incarceration of the petitioner, 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 Judicial Magistrate No.4, Salem and on further condition that the petitioner shall stay at Madurai and report before Anna Nagar Police Station, Madurai daily at 10.00 a.m., until further orders.

-sd/-

10/09/2019

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 I ADDITIONAL SESSIONS
JUDGE, SALEM

2 THE JUDICIAL MAGISTRATE,
NO.4, SALEM

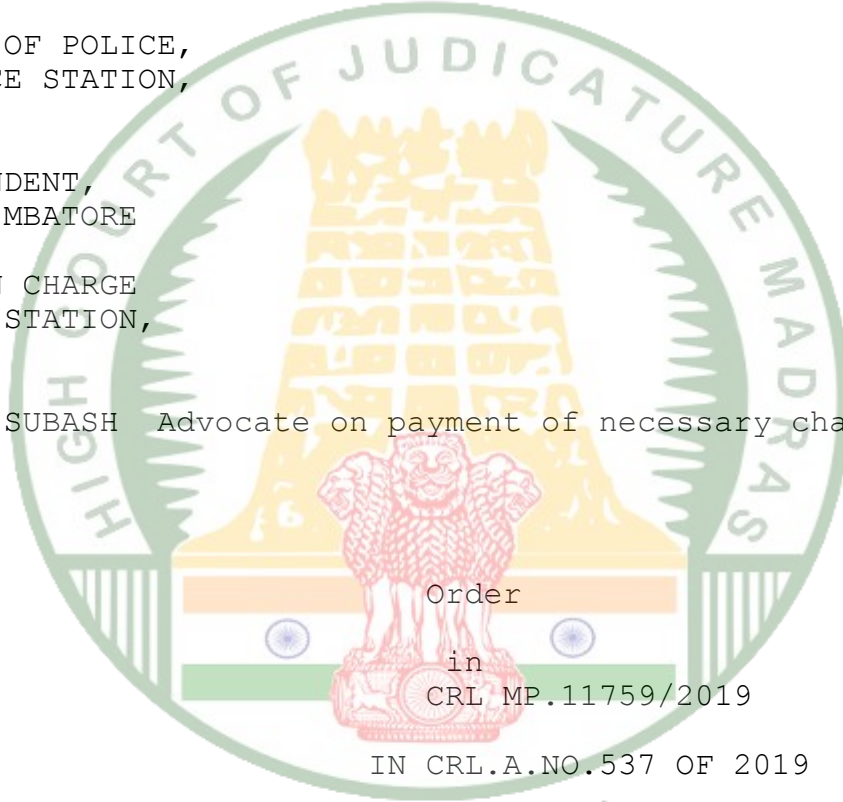
3 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
KANNAKURICHI POLICE STATION,
SALEM,

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

6 THE OFFICER IN CHARGE
ANNA NAGAR POLICE STATION,
MADURAI

+1 C.C. to M.SUBASH Advocate on payment of necessary charges
SR.NO. 18967



सत्यमेव जयते Date :10/09/2019

From 7.2.2001 the Registry is issuing certified
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RD 10/09/2019

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