

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Ninth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.11363 of 2019

IN CRL.A.NO.516 of 2019

SELVI

[APPELLANT / ACCUSED]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
SURAMANGALAM POLICE STATION,
SALEM.
CR.NO.234 OF 2012.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To enlarge the petitioner / appellant on bail by suspending the sentence imposed in S.C.No.50 of 2014 by the Mahila Court, Salem dated 25.07.2019 pending disposal of the above Crl.A.NO.516 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S. K.SATHISH KUMAR, Advocate for the petitioner, and of MR. M.MOHAMED RIYAZ, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed, seeking suspension of sentence of imprisonment, inflicted on the Petitioner/ accused in SC.No.50 of 2014, by judgement dated 25.07.2019, by the Mahila Court, Salem, pending the above appeal.
- 2 This court heard the learned counsel on either side and also perused the materials placed on record.
- 3 The facts of case, in a nutshell, that the son of the deceased had borrowed a sum of Rs.1,00,000/- from the Petitioner/ accused and since the said sum has not been paid, the Petitioner/ accused went to the house of the deceased on 3.3.2012 and abused in a filthy language the deceased and her family members and unable to bear the same, the deceased had committed suicide. Hence, the Petitioner/ accused was charge sheeted for the offence under Section 306 of IPC.

After trial, the Trial Court had found the Petitioner/ accused guilty for the offence under Section 306 of IPC and convicted and sentenced her to undergo five years Rigorous Imprisonment and to pay a fine of Rs.100,000/-, in default to undergo Simple Imprisonment for six months. Hence, the above appeal has been filed, along with the above Criminal Miscellaneous Petition, seeking suspension of sentence.

- 4 The learned counsel for the Petitioner/ accused would submit that the Trial Court erred in finding the Petitioner/ accused guilty for the offence under Section 306 of IPC, when the Prosecution has miserably failed to prove the essential ingredients of Section 306 of IPC and that there is no evidence on record to show that the Petitioner/ accused abetted the deceased to commit suicide and that admittedly, there was a financial dispute between the Petitioner and the family of the deceased and thereby, a false complaint had been lodged as if the Petitioner instigated and abetted the deceased to commit suicide. He would further submit that there are arguable points available in the Criminal Appeal and that the Criminal Appeal is not likely to be taken for final hearing in the near future and that the Petitioner has got a fair chance of succeeding in the Criminal Appeal and would pray that the substantive sentence imposed against the Petitioner/ accused may be suspended.
- 5 The learned Additional Public Prosecutor would vehemently oppose for granting suspension of sentence.
- 6 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, the substantive sentence of imprisonment imposed on the Petitioner/ accused alone is hereby suspended, till the disposal of the Criminal Appeal and the Petitioner/ accused is hereby ordered to be enlarged on bail on the following conditions:-

i. The Petitioner/ accused shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Mahila Court, Salem.

ii The Petitioner/ accused shall report before the Trial Court concerned, on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

09/09/2019

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 MAHILA COURT,
SALEM.

2 THE INSPECTOR OF POLICE,
SURAMANGALAM POLICE STATION,
SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S. K.SATHISH KUMAR Advocate on payment of necessary
charges SR.NO.18886

Order

in

CRL MP.11363/2019

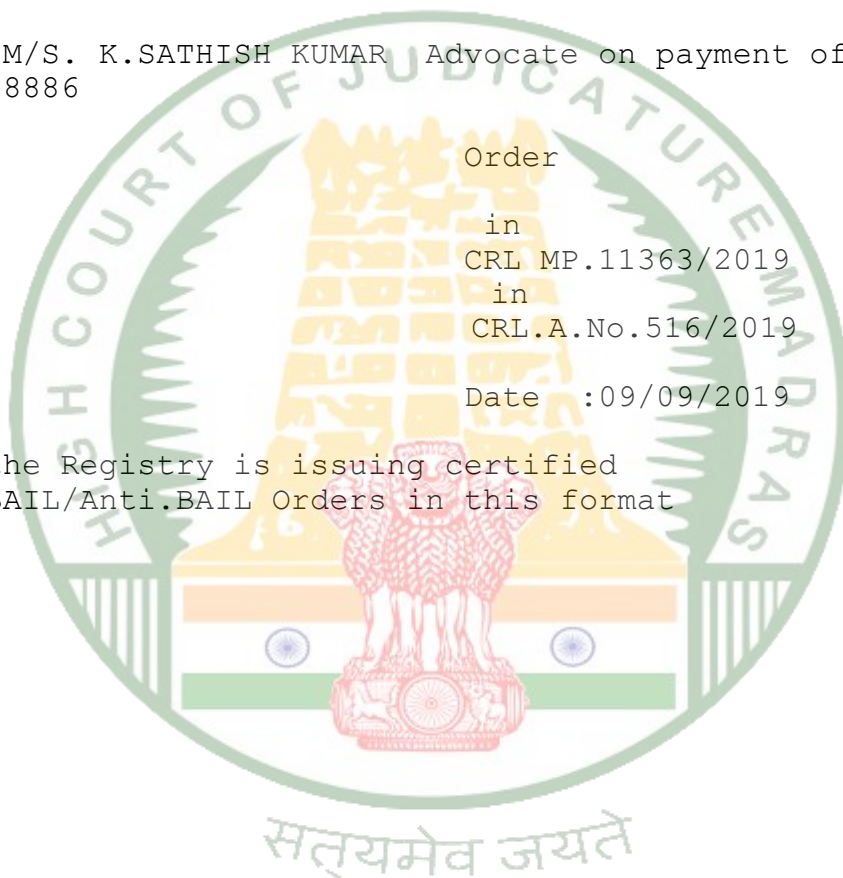
in

CRL.A.No.516/2019

Date :09/09/2019

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TA-13/09/2019



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