

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fourth 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.13631 of 2019

IN CRL.A.No.328 OF 2018

LOGANATHAN

[PETITIONER]

Vs

THE STATE OF TAMIL NADU,
REPRESENTED BY THE INSPECTOR OF POLICE,
ATTYAMPATTY POLICE STATION,
(IN CR.NO.263 OF 2015).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.328 of 2018 on the file of the High Court, the High Court will be pleased to SUSPEND THE SENTENCE imposed upon the petitioner by the Learned II Additional District and Sessions Judge, Salem made in S.C.No.04 of 2016 by a Judgement dated 17.04.2018 and release him on bail and pending disposal of the Crl.A.No.328/18.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.328 of 2018 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. 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 is the sole accused in S.C.No.04 of 2016 on the file of the II Additional District and Sessions Judge, Salem. The trial Court, by judgment dated 17.04.2018 convicted the petitioner for the offence punishable under Sections 341 and 302 IPC and for the offence under Section 341 IPC sentenced to undergo one month simple imprisonment, and for the offence under Section 302 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/- , in default, to undergo one year 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 trial Court has not considered the evidence of P.W.1 in the right perspective. The presence of P.W.1 is doubtful. The deceased is none other than the paternal uncle's daughter of the petitioner. The petitioner was 22 years old at the time of occurrence. He has been under incarceration for nearly 1 ½ years. Thus, there are sufficient points in the appeal to be adjudicated upon. Therefore, the suspension of sentence will have to be granted.

3. The learned Additional Public Prosecutor appearing for the State would submit that it is true that both the deceased and the petitioner are close relatives. However, the witnesses spoke about the occurrence. It is not a single stab injury but multiple in nature. P.W.3 is the grandmother of both the parties. The trial Court has correctly considered her evidence while eschewing the evidence of P.W.1. Hence, the petition will have to be dismissed.

4. Admittedly, the petitioner has been under incarceration from 17.04.2018 onwards. At the time of the occurrence, he was about 22 years old. Thus, considering the above, particularly the existence of available ground that too in the light of evidence of P.W.1, we are inclined to suspend the sentence.

5. 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 on further condition that the petitioner shall stay at Erode and report before the Erode Town Police Station, Erode daily at 10.00 a.m. until further orders.

-sd/-

24/09/2019

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

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

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TO

1 THE JUDICIAL MAGISTRATE,
NO.4, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ATTYAMPATTY POLICE STATION,

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

6 THE OFFICER INCHARGE,
ERODE TOWN POLICE STATION, ERODE.

7 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, SALEM.

C.C. to M/S. M.R.THANGAVEL Advocate on payment of necessary
charges Sr.19855

Order

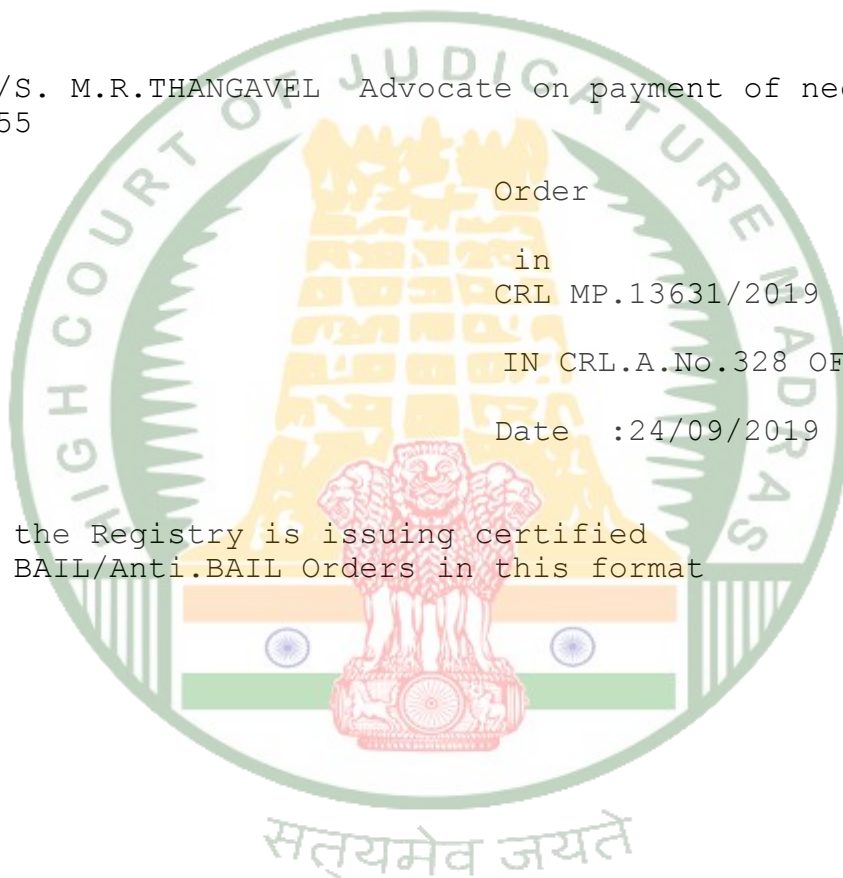
in
CRL MP.13631/2019

IN CRL.A.No.328 OF 2018

Date :24/09/2019

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RVR 24/09/2019



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