

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twentieth day of November 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.14233 OF 2019

IN CRL.A.NO.672 OF 2019

VINAYAGAM

[PETITIONER / APPELLATE / ACCUSED]

Vs

THE STATE REP. BY [RESPONDENT]
INSPECTOR OF POLICE,
GUDIYATHAM TOWN POLICE STATION,
VELLORE DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.672 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in S.C.No.58 of 2018 dated 04/03/2019 on the file of the Additional District and Sessions Judge, (FTC), and enlarge him on bail Vellore under the circumstances of the case in CRL.A.NO.672 OF 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.672 OF 2019 on the file of the High Court and upon hearing the arguments of M/S. M.P.JAYAPRAKASH, 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 sole accused in S.C.No. 58 of 2018 on the file of Additional Sessions Judge (Fast Track Court), Vellore. The trial Court, by judgment dated 04.03.2019 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo one year simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution in nutshell is that the petitioner demanded marriage of the deceased with his third son. On her refusal, he strangled her and committed the offence.

3. The learned counsel appearing for the petitioner submitted that on a perusal of the evidence of P.W.1, it is clear that she was having relationship with the petitioner. In fact, they have been living together for a quite number of years. Both of them belong to different communities. It was not liked by the community which P.W.1 belongs to. There was even a child born out of the relationship. In the cross-examination, P.W.1 has clearly stated that she did not know the contents of the complaint. She merely signed the complaint, which was given at the instance of the community leader. Therefore, the case being one based upon the circumstantial evidence, the petitioner is entitled for suspension of sentence. Thus, this petition will have to be allowed.

4. The learned Additional Public Prosecutor appearing for the State submitted that the occurrence has taken place in the residence of the deceased. The doctor's evidence also substantiated the case of the prosecution. Therefore, this petition will have to be dismissed.

5. The petitioner has been under incarceration from 04.03.2019 onwards. From the evidence, we could see that all of them were living together in the same place. It is the petitioner who informed P.W.1 about the death of the deceased. In the cross examination, P.W.1 has stated that she did not know the contents of the complaint and she merely signed it, which was also done at the instance of the community Head. Thus, we are of the view that there are sufficient points available in the appeal to be argued. The petitioner has also been under incarceration from 04.03.2019 onwards.

6. 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 Additional Sessions Judge (Fast Track Court), Vellore and on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

20/11/2019

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 ADDITIONAL SESSIONS JUDGE (FAST TRACK COURT),
VELLORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GUDIYATHAM TOWN POLICE STATION,
VELLORE DISTRICT.

+1C.C. to M/S. M.P.JAYAPRAKASH Advocate on payment of
necessary charges SR NO.23883

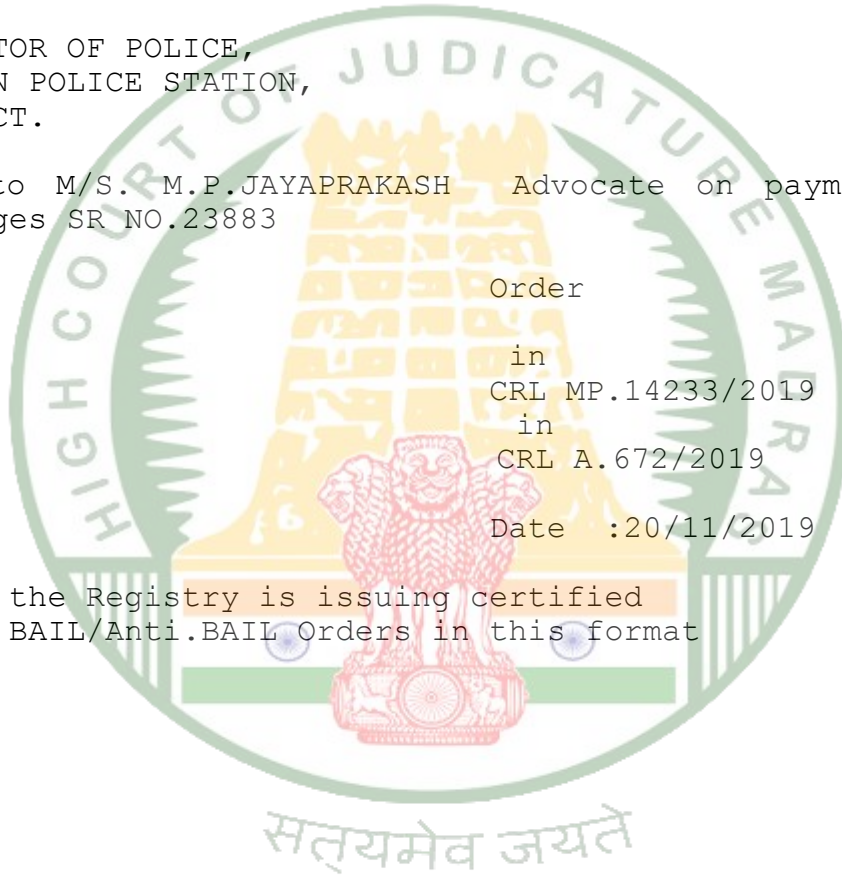
Order

in
CRL MP.14233/2019
in
CRL A.672/2019

Date :20/11/2019

From 7.2.2001 the Registry is issuing certified
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MK:20/11/2019



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