

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirtieth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.16156 of 2018

IN CRL A.187/2018

SARAVANAN,

[PETITIONER]

Vs

STATE,

[RESPONDENT]

THE INSPECTOR OF POLICE,
N2 KASIMEDU POLICE STATION,
CHENNAI.
CR.NO.920 OF 2012.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.157/2018 on the file of the High Court, the High Court will be pleased to release the petitioner on bail suspending the sentence passed by the learned VII Addl. Sessions Judge, Chennai in S.C.No.306 of 2013 on 05.03.2018 pending the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.187/2018 on the file of the High Court and upon hearing the arguments of M/S. BALAKRISHNAN M.V. Advocate for the petitioner and of Mrs.V. SARADHA DEVI Government Advocate on behalf of the Respondent the court made the following order:-

The appellant is the sole accused in Sessions Case No.306 of 2013, on the file of the VII Additional Sessions Judge, Chennai. By judgment, dated 05.03.2018, the trial Court has convicted him for offence under Section 304 (Part I) of the Indian Penal Code. The maximum punishment imposed upon the petitioner is Rigorous Imprisonment for ten years. Challenging the said conviction and sentence, the petitioner has preferred the above appeal. Pending appeal, he seeks for suspension of sentence.

2.Heard the learned counsel for the petitioner and Mrs.V.Saradhadevi, learned Government Advocate, appearing on behalf of the State and I have also perused the records carefully.

3.The learned Government Advocate would submit that there are clinching materials in support of the prosecution case and on the basis of the said materials, the lower Court has passed the impugned order, imposing ten years Rigorous Imprisonment on the petitioner/accused. She would further submit that the

petitioner/accused poured kerosene on his wife and set her ablaze. The occurrence was witnessed by P.W.6, who is a neighbour of the deceased and he deposed to the effect that he saw the deceased running out of the house with flames and at that time, she has stated that her husband poured kerosene and set fire on her. In the dying declaration, which is marked as Ex.P8, the deceased has clearly stated that her husband set fire on her. The mental stability of the deceased for giving dying declaration has also been certified by the Doctor. Therefore, she would submit that there are enough materials to sustain the charge framed against the petitioner and the trial Court has rightly convicted the petitioner.

4.The learned counsel for the petitioner would submit that the petitioner is in no way connected with the offence and it is he who tried to extinguish the fire. The learned counsel would further submit that the petitioner is a one hand person and in such a case it is not possible for him to pour kerosene and set fire. He would also submit that there is no direct eyewitness to the occurrence and the so called eye witness is only a hear say witness and he has not witnessed the occurrence directly.

5.Taking into consideration the overall circumstances of the case and the submission made by the learned Government Advocate and also the seriousness of the charge framed against the petitioner and the cogent evidence pointing the guilt of the petitioner/accused, this Court is of the view that the sentence cannot be suspended, at this stage. Accordingly, this criminal miscellaneous petition is dismissed for the present.

-sd/-

30/01/2019

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 VII ADDITIONAL SESSIONS
JUDGE, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL, CHENNAI

4 THE INSPECTOR OF POLICE,
N2 KASIMEDU POLICE STATION,
CHENNAI.

+1 C.C. to BALAKRISHNAN M.V. Advocate on payment of necessary
charges SR.NO. 2038

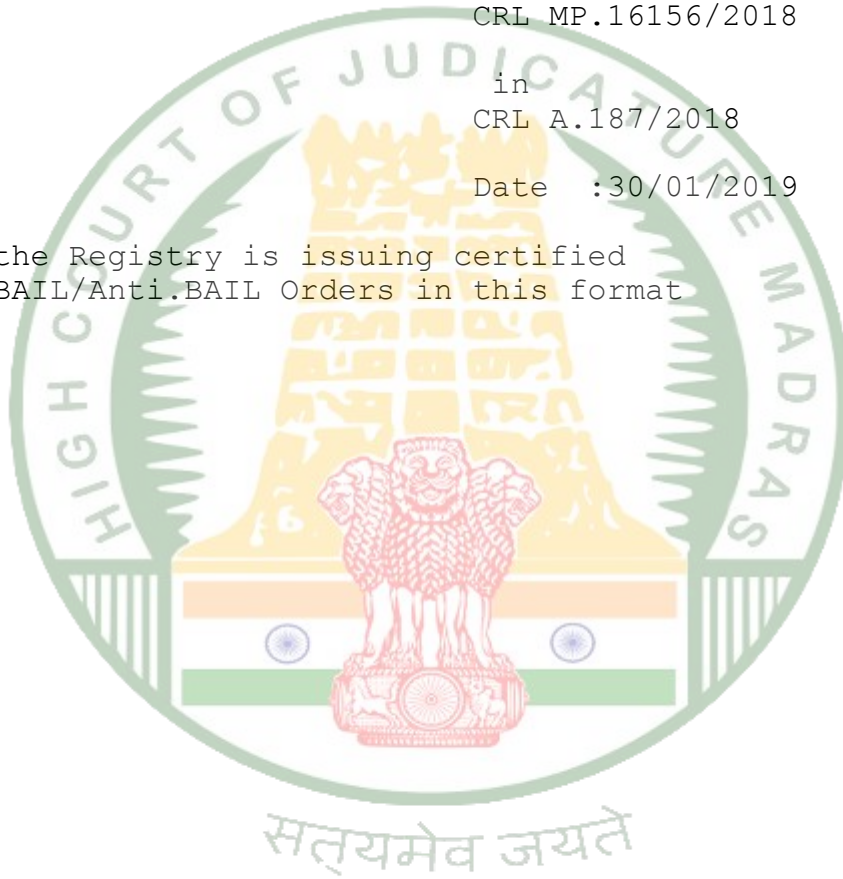
Order

in
CRL MP.16156/2018

in
CRL A.187/2018

Date :30/01/2019

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RD 01/02/2019



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