

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL.MP. Nos.300 and 312 of 2020

in CRL.A.Nos.12 and 13 of 2020

Sankar @ Sankaramoorthy ... Petitioner in
Crl.M.P.No.300 of
2020

Vinayagam @ Vinayagamoorthy ... Petitioner in
Crl.M.P.No.312 of
2020

-vs-

State Represented by ... Respondent in both the petitions
The Inspector of Police
Thakkolam Police Station,
Vellore District.

Criminal Miscellaneous Petitions filed under Section 389(1) of Criminal Procedure Code, to suspend the sentence of imprisonment imposed on the petitioners by the II Additional District and Sessions Judge, Vellore District at Ranipet on 31.10.2019 in S.C.No.188 of 2015 and enlarge the petitioners on bail pending disposal of the appeals.

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For Petitioner	:	Mr.G.Saravanan in Crl.M.P.No.300 of 2020 in Crl.A.No.12 of 2020
		Mr.M.Kumar in Crl.M.P.No.312 of 2020 in Crl.A.No.13 of 2020
For Respondent	:	Ms.M.Prabhavathi, Addl. Public Prosecutor in both petitions

COMMON ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner in CrI.M.P.No.300 of 2020 in CrI.A.No.12 of 2020 has been arrayed as A1 as against the petitioner in CrI.M.P.No.312 of 2020 in CrI.A.No.13 of 2020, who has been arrayed as A2. The first petitioner has been charged for the offence punishable under Sections 341 and 302 r/w 34 IPC and the second petitioner has been charged for the major offence punishable under Section 302 r/w 34 IPC in S.C.No.188 of 2015 on the file of II Additional District and Sessions Judge, Vellore District at Ranipet. The Trial Court, by judgment dated 31.10.2019, convicted the petitioners for the offence punishable under Section 302 r/w 34 IPC and sentenced them to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment while acquitting the first petitioner for the offence punishable under Section 341 IPC. Seeking to suspend the sentence, the present petition has been filed.

2. The petitioners are the brothers. The case of the prosecution is that the due to prior motive which arose in the temple festival between the deceased and the petitioners, they attacked him and committed the offence. A1 is stated to have attacked the deceased with iron rod on the head while A2 attacked him with vegetable cutter on the thigh. Initially, a case has been registered involving the major offence under Sections 341 and 307 IPC. Since the deceased died, it was altered into 302 IPC.

3. Learned counsel appearing for the petitioners submitted that insofar as the petitioner in CrI.M.P.No.300 of 2020 in CrI.A.No.12 of 2020 concerned, the petition filed can be dismissed as not pressed. **Accordingly, CrI.M.P.No.300 of 2020 in CrI.A.No.12 of 2020 stands dismissed as not pressed.**

4. Learned counsel appearing for the petitioners submits that insofar as A2, who is the petitioner in CrI.M.P.No.312 of 2020 in CrI.A.No.13 of 2020 is concerned, even as per the version of the prosecution, he attacked the deceased only on the thigh with the vegetable cutter. Some of the eye witnesses are interested witnesses and the other witnesses would not have been present in the scene of occurrence. The petitioner/A2 has been under incarceration for more than 8 months.

5. Learned Additional Public Prosecutor appearing for the State submits that the motive has been clearly established. There are eye witnesses to the occurrence. The trial Court considered these aspects while rendering the conviction. Thus, the petition will have to be dismissed.

6. We are concerned with the suspension of sentence for A2. Taking into consideration the specific overt act attributed against the petitioner/A2 coupled with the period of incarceration, we are of the view that the sentence imposed will have to be suspended. After all, there is a difference between the overtact attributed against A1 and the petitioner/A2.

7. Thus, considering the above, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the petitioner in Crl.M.P.No.312 of 2020 in Crl.A.No.13 of 2020 executes his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the Superintendent, Central Prison, Vellore, and on further condition that he shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
29/06/2020

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 II ADDITIONAL DISTRICT AND SESSIONS
JUDGE, VELLORE AT RANIPET.

2 THE JUDICIAL MAGISTRATE,
ARAKKONAM.

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
THAKKOLAM POLICE STATION,
VELLORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S.G.SARAVANAN Advocate on payment of necessary charges

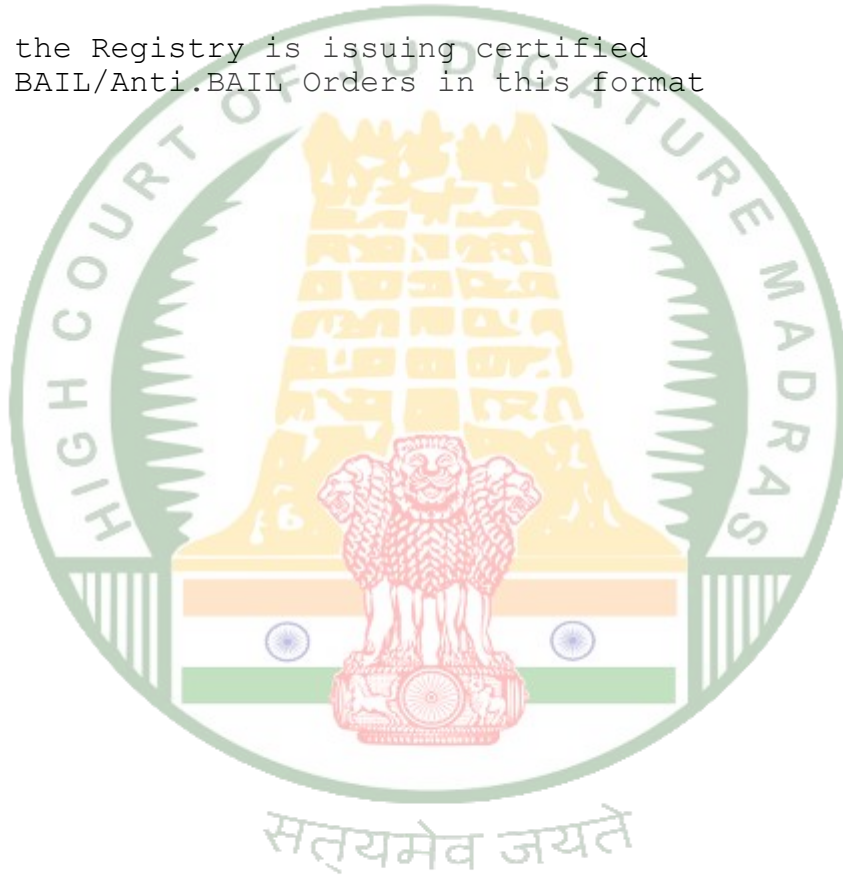
Order

in
CRL MP.300 & 312/2020
in CRL.A.No.12 & 13/2020

Date :29/06/2020

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TA-06/08/2020



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