

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No.809 of 2020
in Crl.A No.42 of 2020

Saravanan ... Petitioner

vs

State Rep by ... Respondent
The Inspector of Police,
Andimadam Police Station,
Ariyalur District.
Crime No.387 of 2017.

Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence of conviction and imprisonment dated 25.11.2019 imposed by the Additional District and Sessions Judge, Ariyalur in S.C.No. 74 of 2018 and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.A.E.Lakshmi Narayanan

For Respondent : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

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

The petitioner is the sole accused in S.C.No. 74 of 2018 on the file of Additional District and Sessions Judge, Ariyalur. The trial Court by judgment dated 25.11.2019 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.5,000/-. Seeking suspension of sentence imposed, the present petition has been filed.

2. Learned counsel appearing for the petitioner submitted that 13 witnesses turned hostile. P.W.1 and P.W.2 are the interested witnesses. There is discrepancy in the evidence of P.Ws 1 and 2 with respect to the motive part. The case of the prosecution is that there is a property dispute between the deceased and the petitioner and it has not been proved. P.W.1 has also stated that the complaint has been written by his relative. The said person has not been

examined. The recovery has not been proved. P.Ws.10 and 11 have deposed that signatures have been obtained from the petitioner in the police station where the material objects were already found in existence. Thus, considering the above and coupled with the fact that the petitioner has been under incarceration for nearly one year, the sentence will have to be suspended.

3. Learned Additional Public Prosecutor appearing for the State submitted that de hors the recovery of P.Ws 1 to 4 being the eye witnesses, spoke about the occurrence. P.W.1 also speaks about the weapon used. This is corroborated by the medical evidence. P.Ws. 11 and 12 also speak about the recovery. Therefore, the present petition will have to be dismissed.

5. The petitioner has been under incarceration for nearly one year. Of the witnesses, thirteen have turned hostile. We do find that there are certain points both on fact and law which are required to be dealt with in extenso at the time of hearing the appeal. Thus, taking into consideration the above said facts, we are inclined to suspend the sentence.

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 Additional District and Sessions Judge, Ariyalur 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/-

03/11/2020

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
ARIYALUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ANDIMADAM POLICE STATION,
ARIYALUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 C.C. to M/S.A.E.LAKSHMI NARAYANAN Advocate on payment of
necessary charges SR.NO.7202

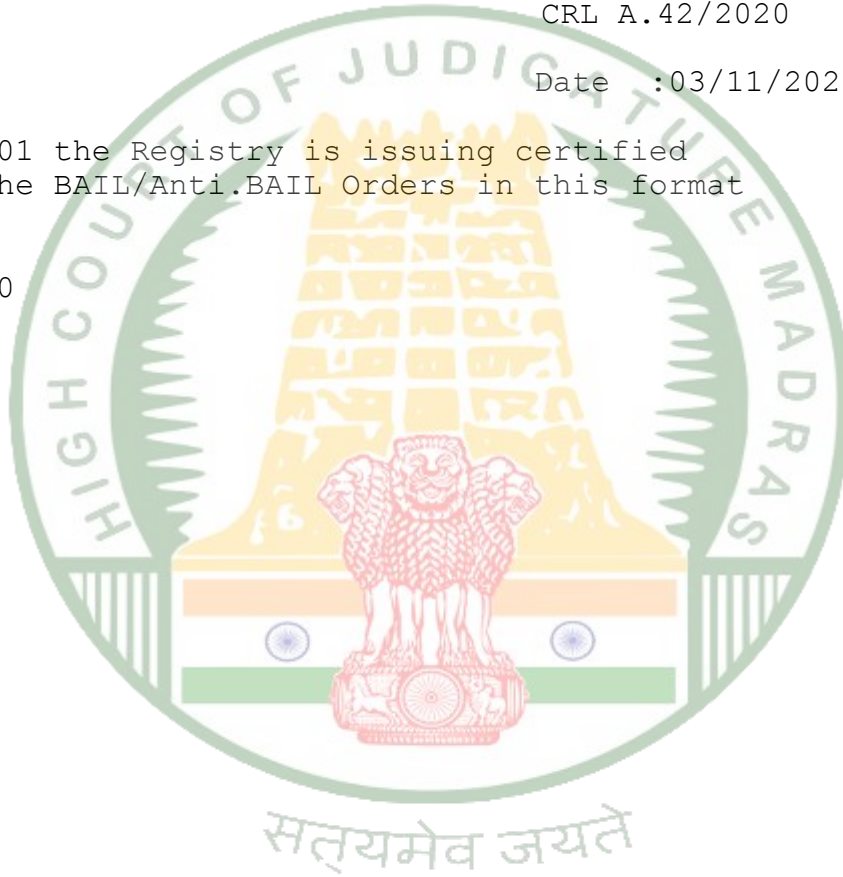
Order

in
CRL MP.809/2020
in
CRL A.42/2020

Date :03/11/2020

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