

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Tenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice N. KIRUBAKARAN

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.1881 of 2020

IN CRL.A.No.592 OF 2019

1 MARAPPAN
2 SIVAKUMAR

[PETITIONERS/APPELLANTS]

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
NAMAGIRIPET POLICE STATION,
NAMAKKAL DISTRICT,
(CRIME NO.112 OF 2016).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.592 OF 2019 on the file of the High Court, the High Court will be pleased to order that the execution of the sentence imposed in SC No.30 of 2017 on the file of the Additional District Judge, Namakkal be suspended and direct the released of the petitioner on bail from their confinement at Central Prison, Coimbatore on such terms and conditins.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.592 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.N.A.RAVINDRAN, Advocate for the petitioner and of M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by N.Kirubakaran, J)

This petition has been filed by the petitioners who have been sentenced for life seeking suspension of sentence.

2.The case of the prosecution is that the petitioners during night time murdered one father and son viz., Ayyavoo @ Periyannan/Pw4's husband and Sivakumar/PW1's husband, due to previous enmity arising out of prolonged land dispute between the two families.

3.The learned counsel appearing for the petitioners would submit that there is no believable evidence on the side of the prosecution.

PW4, the wife of the elder person who was murdered, turned hostile. Further, it is admitted by the witnesses that at the time of occurrence, it was dark and they were unable to see the accused. He would further refer to the earliest evidence of PW4 in the presence of the Doctor in Hospital that she could not see the assailants. Therefore, the trial Court's judgment is based on no evidence. He would also submit that the time of occurrence is 01.30 AM whereas the FIR was filed before the Magistrate Court only at 09.00 AM and in between the prosecution has manipulated the case as the inquest was made between 05.00 AM to 07.00 AM. Therefore, there are so many irregularities in the evidence based on which the conviction has been made. Further he would submit that the conviction is based on no evidence. Hence, the sentence has to be suspended.

4. However, the learned Additional Public Prosecutor would point out that PW1 categorically stated that the petitioners alone assaulted the deceased with weapons and she read out the relevant portion of the evidence. When that is the position, the accused cannot be released.

5. Though certain contradictions have been pointed out by the learned counsel appearing on behalf of the petitioners, it is a case of double murder arising out of land dispute. PW1 categorically stated that the petitioners assaulted the deceased with knife on the face, shoulder and on the legs. The petitioners sprayed the cow dung and water on the face of the father in law of PW1 and they attacked him on shoulder and neck with knife. This is a serious offence involving two murders. Two male members of the family have been done away with and therefore, this Court is not inclined to suspend the sentence.

6. Accordingly, this petition is dismissed.

-sd/-

10/03/2020

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 ADDITIONAL DISTRICT JUDGE,
NAMAKKAL

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

<https://hcservices.ecourts.gov.in/hcservices/>

4 THE INSPECTOR OF POLICE,
NAMAGIRIPET POLICE STATION,
NAMAKKAL DISTRICT.

C.C. to M/S.N.A.RAVINDRAN Advocate on payment of necessary
charges Sr.4878

Order

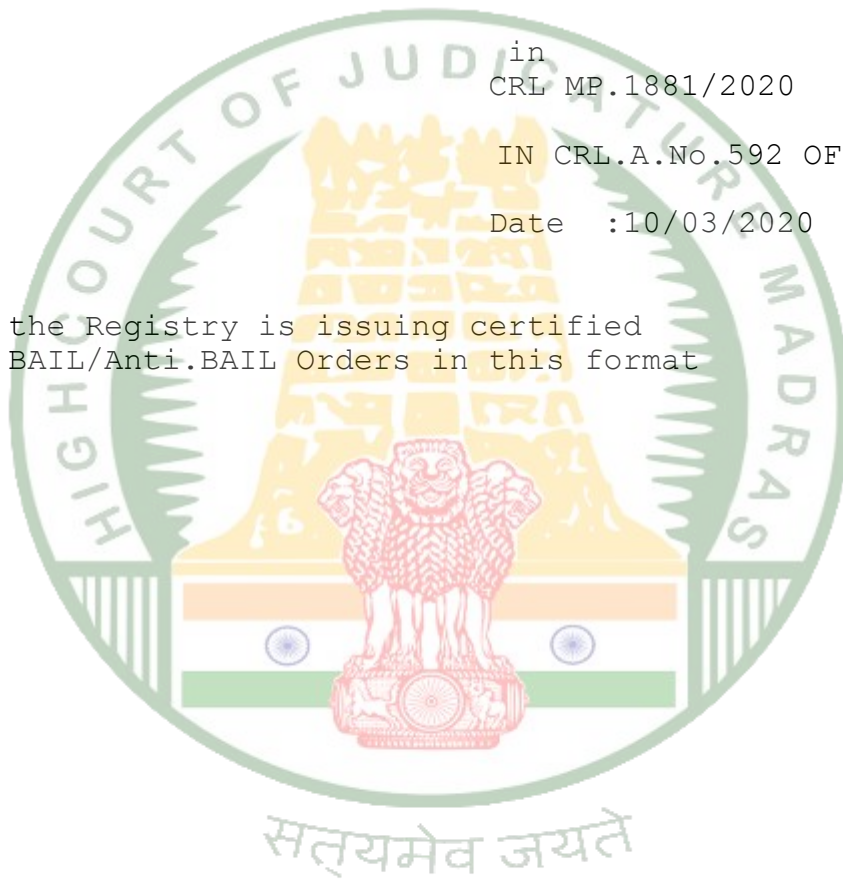
in
CRL MP.1881/2020

IN CRL.A.No.592 OF 2019

Date :10/03/2020

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RVR 18/03/2020



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