

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 7766 of 2020

in

Cr1.A No.492 of 2020

Abbas

.... Petitioner

vs

State by

The Inspector of Police,
Pudumund Police Station,
The Nilgiris.

.... Respondent

Petition filed under Section 389(1) r/w 439 of Cr.PC to suspend the sentence passed by the Sessions Judge, Magalir Neethimandram (FTMC), Udhagamandalam at Nilgiris in S.C. No.23 of 2016 dated 11.10.2018 pending disposal of the appeal.

For Petitioner .. Mr.T.Shanmugam

For Respondent .. Mr.K.Prabhakar,
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.23 of 2016 on the file of the Sessions Judge, Magalir Neethimandram (FTMC), Udhagamandalam at Nilgiris. He was accordingly convicted for the offence punishable under Section 302 IPC by judgment dated 11.10.2018 and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the petitioner, who is the husband of the deceased enraged over her refusal to part with money, poured kerosene and committed the offence.

3.Learned counsel appearing for the petitioner submitted that apart from the fact that the petitioner has been under incarceration for more than two years, there are two statements given by the deceased. In the earlier statement, she has stated that it was the accident. This was also recorded by the Doctor before whom she was brought forth. There is a delay in registering the FIR. The evidence of P.W.2 will have to be seen in the light of the circumstances governing. Thus, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that P.W.2, who is none other than the daughter of the petitioner, has deposed against him. Thus, the petition requires to be dismissed.

5.The question for consideration is as to whether it is a case of homicide or suicide. The value of the evidence given by P.W.2 in the light of the two statements made by the deceased will have to be seen at the time of deciding the appeal. Admittedly, the petitioner has been under incarceration for more than two years. Thus, considering the above, particularly the period of incarceration, 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 Sessions Judge, Magalir Neethimandram (FTMC), Udthagamandalam at Nilgiris 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/-

17/12/2020

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.

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TO

1 THE SESSIONS JUDGE,
MAGALIR NEETHIMANDRAM (FTMC)
UDAGAMANDALAM AT NILGIRIS

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
PUDUMUND POLICE STATION,
THE NILGIRIS.

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

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S.T.SHANMUGAM Advocate on payment of necessary
charges Sr.8330

Order

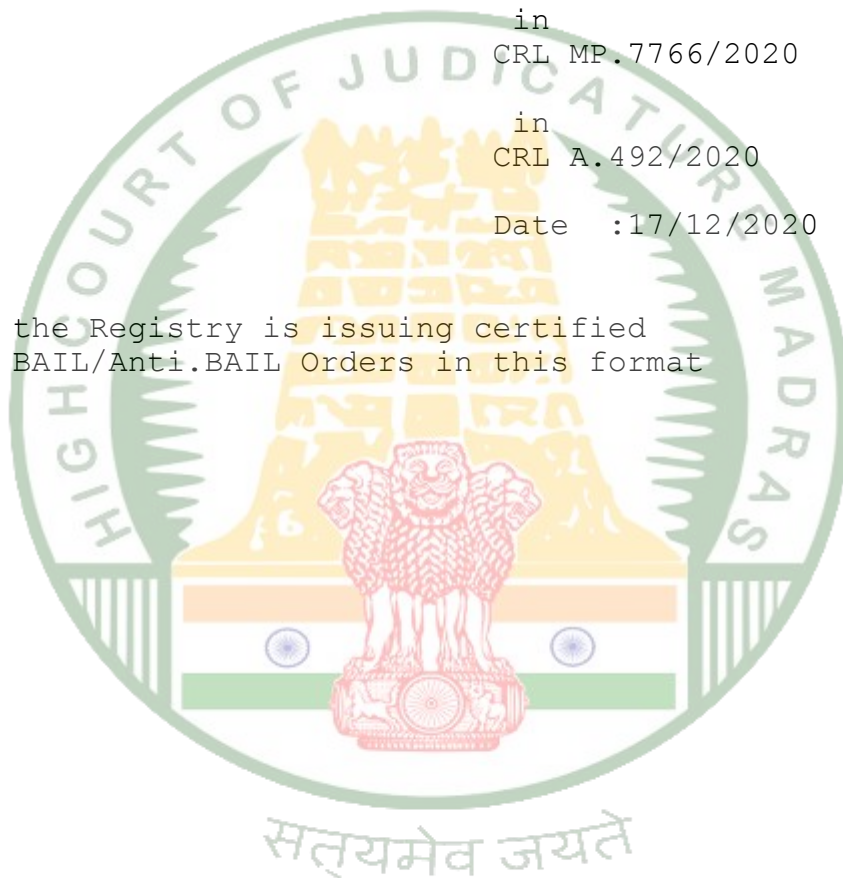
in
CRL MP.7766/2020

in
CRL A.492/2020

Date :17/12/2020

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RVR 18/12/2020



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