

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. 3187 of 2020

in CrI.A No.177 of 2020

Ravi

... Petitioner

vs

State rep. By

... Respondent

The Inspector of Police (L&O),
J-4, Kotturpuram Police Station,
Chennai-85.
(Cr.No.602 of 2010)

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed in S.C.No.178 of 2011 on the file of the II Additional Sessions Judge, Chennai dated 17.02.2020 pending disposal of the appeal.

For Petitioner .. Mr.Ilayaraja Kandasamy

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. 178 of 2011 on the file of the II Additional Sessions Judge, City Civil Court, Chennai. He was accordingly convicted for the offence punishable under Section 302 IPC by judgment dated 17.02.2020 and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased was working as a Carpenter and the petitioner is a Plumber. The deceased borrowed a sum of Rs.2,000/- from the petitioner, which he did not repay. There was a quarrel between them in view of the non-payment. On the date of occurrence, the petitioner is stated to have attacked the deceased with the wooden log.

3.Learned counsel appearing for the petitioner submitted that the trial Court committed an error in placing reliance upon the evidence of P.Ws 1 to 4 wrongly. The petitioner has been under incarceration from 17.02.2020 onwards. P.Ws 1 to 3 could not have been the eye witness. Thus, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that the occurrence took place in the house of the deceased. There are eye witnesses in the form of P.Ws 1 to 3. The trial Court, considered the evidence of P.Ws 1 to 3 along with the recovery made. Thus, this petition will have to be dismissed.

5.We do find arguable points available in the appeal. It is not as if the petitioner took the wooden log along with him with the intention of causing murder. The dispute arose due to the non-payment by the deceased. The petitioner and the deceased were working as Plumber and Carpenter respectively. Thus, considering the above, and taking into consideration 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 IX Metropolitan Magistrate, Saidapet, Chennai 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.

TO

1 THE IX METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

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

3 THE II ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE, L AND O
J-4, KOTTURPURAM POLICE STATION,
CHENNAI-85.

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

C.C. to M/S. ILAYARAJA KANDASAMY Advocate on payment of
necessary charges

Order

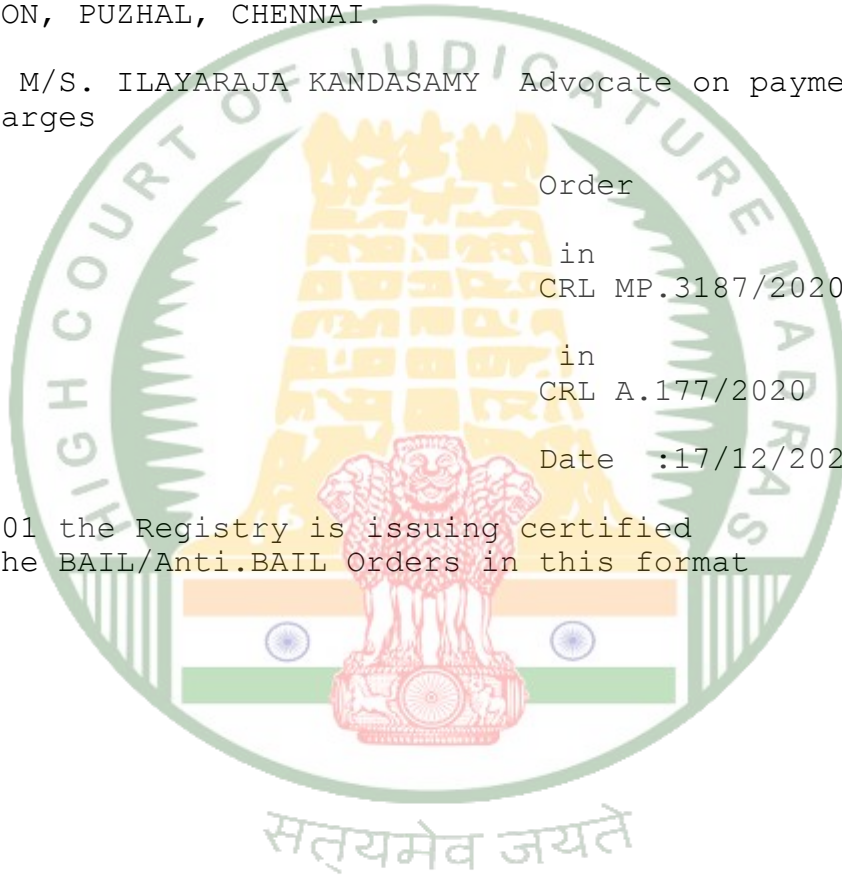
in
CRL MP.3187/2020

in
CRL A.177/2020

Date :17/12/2020

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