

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

Coram

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

CRL MP No. 3663 of 2020
in Crl.A No. 203 of 2020

Prakash @ Appaiyaa @ Dass ... Petitioner

vs

The State Rep. by
The Inspector of Police,
Uthanapalli Police Station,
Hosur Taluk,
Krishnagiri District. ... Respondent

Petition filed under Section 389 of Cr.P.C. to suspend the sentence of imprisonment imposed by Additional District and Sessions Court, Hosur vide judgement dated 12.02.2020 in S.C.No.203 of 2016 and direct that the appellant be enlarged on bail.

For Petitioner ... Mr.P.V.Selvarajan
for M/s.Govind Chandrasekhar

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. 203 of 2016. The trial Court by judgment dated 12.02.2020 convicted the petitioner for the offence punishable under Sections 302 and 506(ii) IPC. For the offence punishable under Section 302 IPC sentenced him to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to undergo six months simple imprisonment and for the offence punishable under Section 506(ii) IPC, sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo three months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the petitioner and the family of the deceased were having a dispute over the land. There was a wordy quarrel three years prior to the occurrence. On the date of occurrence, when the deceased was standing on the land in the presence of P.Ws 1 to 3, the petitioner attacked him with wooden log taken from the shop of P.W.12. The deceased who was stated to be in inebriated condition died out of injuries suffered.

3. Learned counsel appearing for the petitioner submitted that post-mortem report indicates that the deceased was under influence of alcohol. The evidence of P.Ws 1 to 3 cannot be believed in view of the evidence of P.W.12, who has stated that at the time of occurrence, the shop was closed and he came to know about the same only after seeing the death of the deceased in the posters attached to the wall. The earlier complaint has been burnt. P.W.1 has stated that the VAO got the statement from her earlier. He further stated that the complaint was given at 16.15 hrs on 24.02.2016 but it was signed under Ex.P.1 as if it was signed on 25.02.2016. Thus, considering the above, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that P.Ws. 1,3,4 and 5 are the eye witnesses. The medical evidence also corroborates the evidence of P.Ws 1 to 5. Thus, the trial Court rightly considered all the above said aspects and, therefore, this petition will have to be dismissed.

5. Upon hearing the submissions made, we do find that there are issues to be decided being substantial in the appeal. The petitioner has been under incarceration from 12.02.2020 onwards. The dispute is said to have emanated pursuant to the existing dispute over the land. The deceased was also found to be under the control of alcohol. Furthermore, the petitioner is stated to be suffering from illness requiring immediate surgery. Though three weeks time was granted on the earlier occasion for the aforesaid purpose, the surgery could not be performed as the condition of the petitioner was not conducive. Thus, considering the above, 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 Judicial Magistrate II, Hosur 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/-
05/11/2020

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 JUDICIAL MAGISTRATE NO.II,
HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
KRISHNAGIRI [FOR INFORMATION]

3 THE ADDITIONAL DISTRICT AND SESSIONS COURT,
HOSUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
UTHANAPALLI POLICE STATION,
HOSUR TALUK,
KRISHNAGIRI DISTRICT.

7 THE ASSISTANT SURGEON
CENTRAL PRISON, VELLORE.

+1C.C. to M/S GOVIND CHANDRASEKHAR Advocate on payment of
necessary charges SR NO.7312

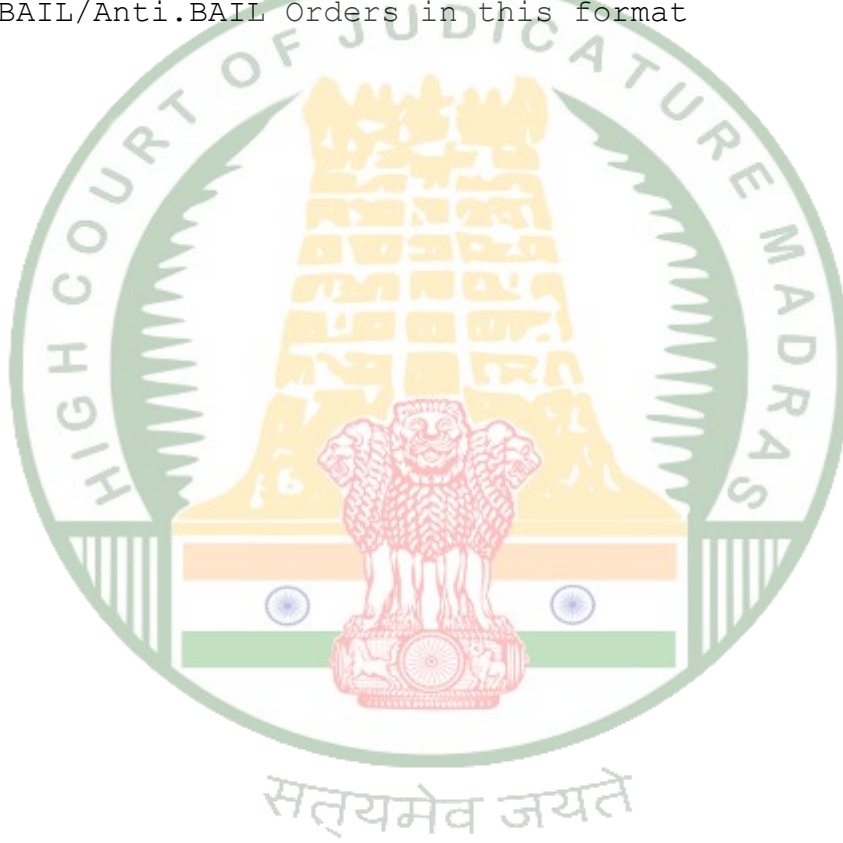
Order

in
CRL.MP.NO.3663/2020
in
CRL.A.NO.203/2020

Date :05/11/2020

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MK:06/11/2020



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