

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

AND

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.M.P. No. 4078 of 2020

in

CrI.A. No. 242 of 2020

Babu

..Petitioner

Vs.

State rep. by
Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
Cr.No.946 of 2016

..Respondent

Prayer: Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in the judgement dated 27.12.2019 made in S.C.No. 175 of 2017 on the file of the Sessions Judge, Mahila Court, Cuddalore District and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner ... Mr.K. Gandhi Kumar

For Respondent ... Mr.R. Prathapkumar
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. 175 of 2017 on the file of Sessions Judge, Mahila Court, Cuddalore District. The trial Court by judgment dated 27.12.2019 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo six months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the deceased is the wife of the petitioner. There were prior quarrels and misunderstandings between the petitioner and the deceased. On the date of occurrence, the petitioner is stated to have attacked her by throttling her. Having found her in an unconscious state, thereafter, the petitioner had taken the deceased to the hospital where she was pronounced dead.

3. Learned counsel appearing for the petitioner submitted that the subsequent conduct of the petitioner, which is a relevant fact, would show that there was no intention to commit the murder. Even assuming that the occurrence is proved, the petitioner has been under incarceration for nearly one year. There are arguable points available in the appeal. Hence, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that though the Revenue Divisional Officer has come to a conclusion that there was no dowry demand, the fact remains that there were fights and disputes between the petitioner and the deceased. This coupled with the fact that the petitioner alone was at the place of occurrence would lead to the correct conclusion having been arrived at by the Trial Court. Hence, the petition will have to be dismissed.

5. The petitioner has been under incarceration for nearly one year. The issue for consideration is as to whether offence under Section 302 IPC is made out or not, provided the prosecution has proved its case. Thus, we find existence of important points available in the appeal to be decided. In such view of the matter, 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 No.I, Virudhachalam, Cuddalore District 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/-

11/12/2020

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 JUDICIAL MAGISTRATE,
NO.I, VIRUDHACHALAM, CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE SESSIONS COURT,
MAHILA COURT, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VIRUDHACHALAM POLICE STATION,
CUDDALORE DISTRICT.

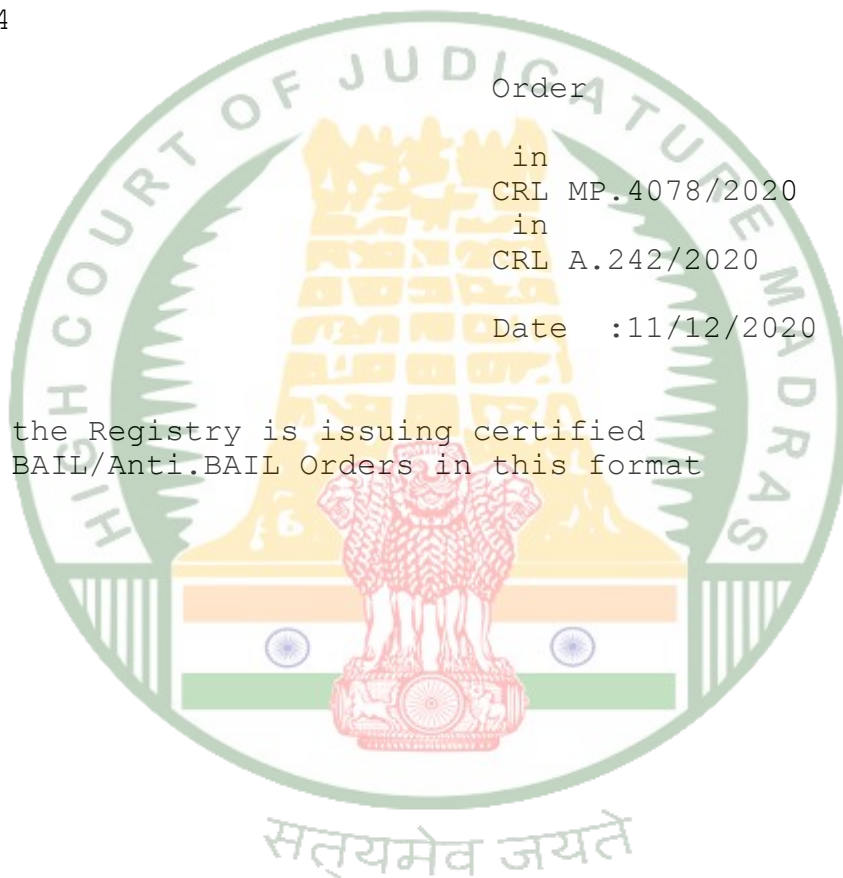
6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

C.C. to M/S.K.GANDHI KUMAR Advocate on payment of necessary
charges Sr.8104

Order
in
CRL MP.4078/2020
in
CRL A.242/2020
Date :11/12/2020

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RVR 11/12/2020



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