

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. M.P. No. 4580 of 2020

in Crl. A. No. 599 of 2019

Raja Petitioner/Accused

Vs

State represented by Respondent/Complainant
The Inspector of Police
Tiruvannamalai Town Police Station
Tiruvannamalai District.
Crime No.556/2008

PRAYER : Criminal Miscellaneous Petition filed under Section 389 (1) of Criminal Procedure Code praying to suspend the sentence made in S.C.No.44 of 2009 dated 12.07.2019 on the file of the Principal Sessions Court, Fast Track Mahila Court, Tiruvannamalai and enlarge the petitioner on bail pending disposal of Crl.A.No.599 of 2019.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mrs. M. Prabhavathi,
(Additional Public Prosecutor)

ORDER

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter is heard through "Video Conferencing".

2.This appeal is filed against the judgment imposing life imprisonment against the appellant/petitioner for having murdered one Ammu, who was said to be the second wife of the appellant on 26.05.2008 at 11.30 p.m. by pouring kerosene and set her ablaze. The said judgment was passed on 12.07.2019. The present petition has been filed to suspend the sentence imposed on the petitioner.

3.Learned counsel appearing for the petitioner would submit that the case of appellant is that victim herself poured kerosene

and committed suicide and the appellant has not murdered the victim. He would submit that there is no evidence to substantiate that the appellant had committed the murder. P.W.6 who is said to have seen the appellant fleeing from the scene of occurrence, did not depose about the same in the evidence and that apart, there are many infirmities in the evidence which should not have been relied upon by the trial Court for convicting the appellant. Therefore, he prays this Court to suspend the sentence against the petitioner.

4. On the other hand, Mrs.M.Prabhavathy, learned Additional Public Prosecutor appearing for the respondent would submit that there is a dying declaration by the deceased before the Doctor. The deceased is also said to have made such statement to the owner of the house, who first rescued lady, that her husband poured kerosene and set her on fire and therefore, there is no necessity for suspending the sentence.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6. It is seen from the records that the appellant has already got married and he eloped with the victim and got married her as second wife. The quarrel is said to have taken place because of the conversation through cell phone made by the appellant with his first wife. The victim in the dying declaration has categorically stated that her husband namely, the appellant only poured kerosene and set her fire. P.Ws.4 and 5 have noticed the victim along with the accused in their house. P.W.4, who is living adjacent to the victim's house rescued the victim by removing the lock of the door, to whom the victim had stated that her husband poured kerosene and set her fire. When there are direct eye-witnesses who spoke about the presence of the appellant in the scene of occurrence and also the statement given by the deceased in dying declaration, the suspension of sentence cannot be ordered. Accordingly, this petition stands dismissed.

-sd/-

03/08/2020

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 PRINCIPAL SESSIONS COURT
FAST TRACK MAHILA COURT, TIRUVANNAMALAI.

2 THE INSPECTOR OF POLICE,
THIRUVANNAMALAI TOWN POLICE STATION,
THIRUVANNAMALAI DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S. S.N.ARUNKUMAR Advocate on payment of necessary
charges

Order

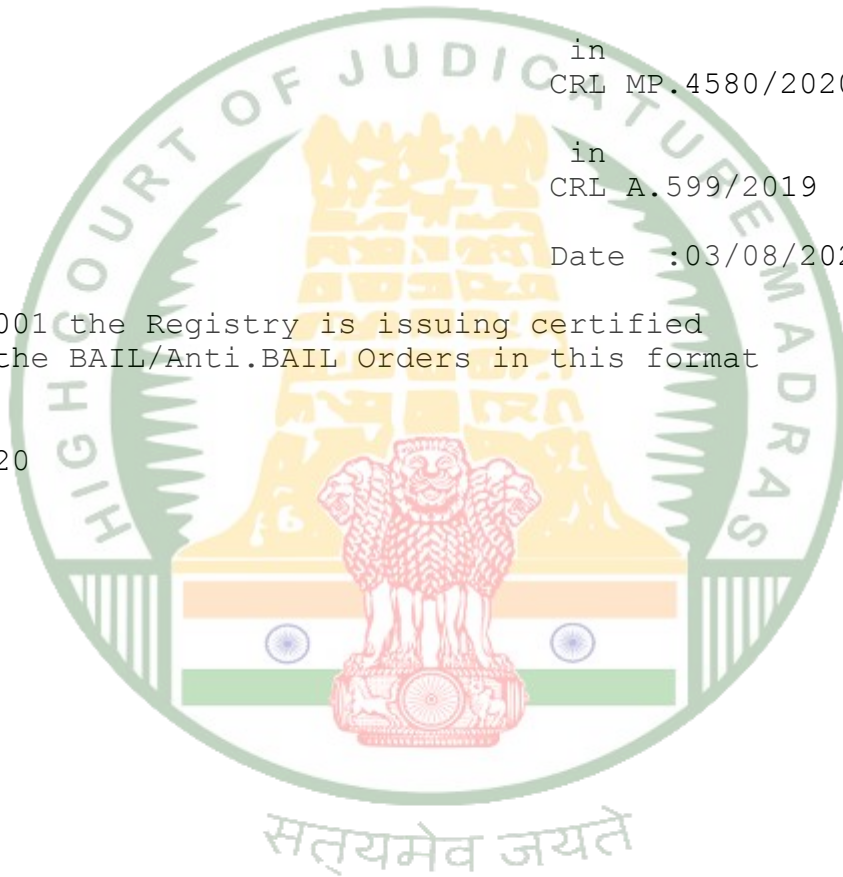
in
CRL MP.4580/2020

in
CRL A.599/2019

Date :03/08/2020

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