

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. 4903 of 2020

in

Cr1.A No.314 of 2020

Gowri Sankar

... Petitioner

vs

State rep. by
Inspector of Police,
Mallur Police Station,
Salem District.

... Respondent

Petition filed under Section 389(3) of Cr PC to suspend the sentence passed by the Principal Sessions Judge, Salem in S.C.No.388 of 2016 dated 09.12.2019 pending disposal of the appeal.

For Petitioner .. Mr.Sankarasubbu
for Mr.A.P.Kannan

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. 388 of 2016 on the file of the Principal Sessions Judge, Salem. He was accordingly convicted for the offence punishable under Section 302 IPC by judgment dated 09.12.2019 and sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo four years imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased and the petitioner quarrelled with each other as the petitioner demanded money for consumption of liquor. Pursuant to the said quarrel, the petitioner took the wooden log available in the nearby place and attacked him.

3.Mr.R.Sankarasubbu, learned counsel appearing for the petitioner submitted that it a case of case in counter. The petitioner also suffered injuries. The viscera report indicates that the deceased was also under the influence of alcohol. The petitioner has been under incarceration for more than one year. Thus, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that the there are eye witnesses in the form of P.Ws 2 to 4. This coupled with the medical evidence made the trial Court to convict the petitioner. There was also recovery of material objects from the petitioner. Thus, the petition will have to be dismissed.

5.As stated, it is a case of case in counter. The deceased was also under the influence of alcohol admittedly. The petitioner has also suffered injuries. The question for consideration is as to whether the homicide is one punishable under Section 302 IPC as coming under Section 300 IPC or under Section 299 IPC, as the case may be. Thus, taking note of the above and in the light of the period of incarceration, being one year, 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.VI, Salem 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

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सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

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TO

1 THE JUDICIAL MAGISTRATE,
NO.VI, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 INSPECTOR OF POLICE,
MALLUR POLICE STATION,
SALEM DISTRICT.

5 THE PRINCIPAL SESSIONS JUDGE,
SALEM.

6 THE SUPERINTENDENT,
CENTRAL PRISON,
COIMBATORE.

C.C. to M/S.A.P.KANNAN Advocate on payment of necessary charges
Sr.8386

Order

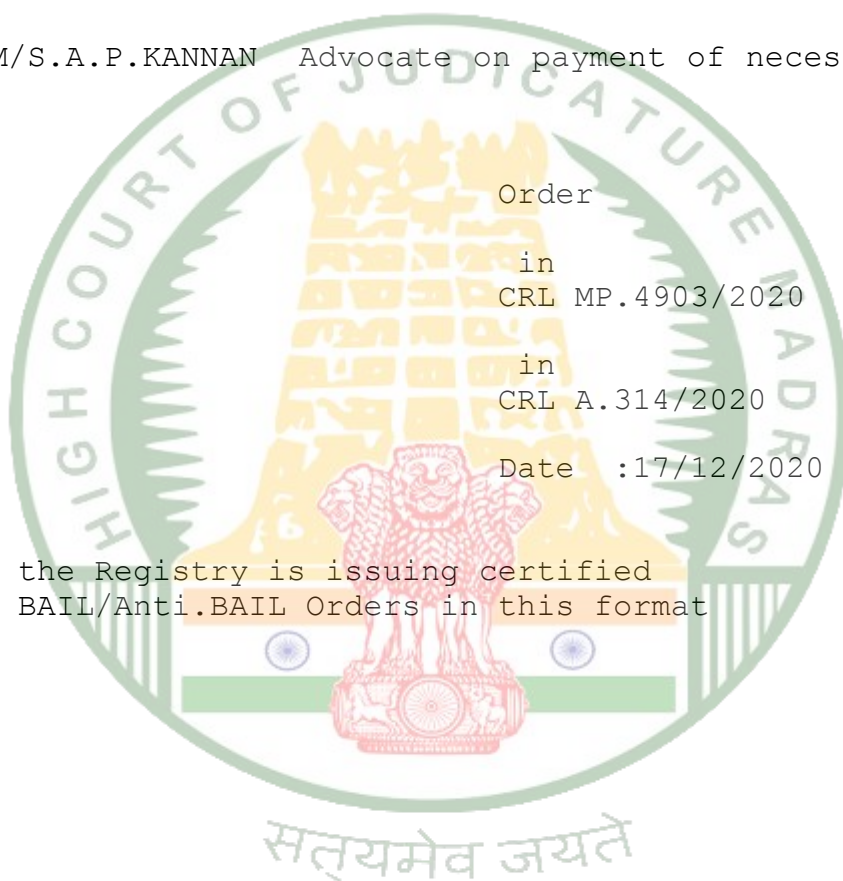
in
CRL MP.4903/2020

in
CRL A.314/2020

Date :17/12/2020

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RVR 18/12/2020



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