

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. 5334 of 2020

in

Crl.A No. 353 of 2020

Ajjim ... Petitioner
vs

The State Rep. by
The Inspector of Police,
Villupuram West Police Station,
Villupuram Respondent

Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed by learned Special Court of SC/ST Act Cases Court - Villupuram dated 13.07.2020 in S.C.No. 137 of 2016 and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner .. Mr.Babu

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

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

2.Despite service of notice and the name of the victim having been printed in the cause list, the victim has not appeared.

3.The case of the prosecution is that A1 was convicted only for two years being the father of this petitioner having arrayed as A2 entered into a sale agreement with the defacto complainant, namely, P.W.1 who belongs to Scheduled Caste Community. There existed a dispute between the parties thereafter. On the date of occurrence - 12.06.2016, A1 and A2 came to the place of occurrence, humiliated P.W.1 by calling name and degrading his caste and attacked him. The overt act attributed against A1 is that he attacked the victim with hands while the petitioner attacked with the iron rod.

4.Upon trial, A1 was convicted and sentenced to undergo two years rigorous imprisonment for the offence punishable under Section 506(i) IPC while this petitioner/A2 was convicted for the offence punishable under Section 307 IPC and sentenced him to undergo ten

years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment, for the offence punishable under Section 3(2)(v) of SC/ST(POA), sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

5.Learned counsel appearing for the petitioner submitted that there is no basis for the said conviction. P.Ws 4 and 5 have turned hostile. The accident register speaks only one person has attacked and there is no recovery of the iron rod. The occurrence place as mentioned in the accident register is different from the one, as projected by the prosecution. Thus, the sentence will have to be suspended.

6.Learned Additional Public Prosecutor appearing for the State submitted that there are eye witnesses to the occurrence. Though the injured victim has been discharged, the rigour of Section 3(2)(v) of the SC/ST(POA) Amendment Act would apply. Therefore, this petition will have to be dismissed.

7. Admittedly, the injured has been discharged. The petitioner has been under incarceration from 13.07.2020. There is some contradiction between the accident register copy and the case as projected by the prosecution. No recovery of iron rod has been made. There is a lingering doubt over the place of occurrence. If only one person has committed the offence as indicated in accident register copy, then the case as projected by the prosecution cannot be believed. Prima facie, we do find that there are issues involved to be decided in the appeal. We also found that the injuries are not so severe. Thus, considering the above, we are inclined to suspend the sentence.

8. 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 Special Court for SC/ST Act Cases Court, Villupuram 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 SPECIAL COURT FOR
SC/ST ACT CASES COURT, VILLUPURAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
VILLUPURAM WEST POLICE STATION,
VILLUPURAM,

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

C.C. to M/S. BABU Advocate on payment of necessary charges
Sr.7290

Order

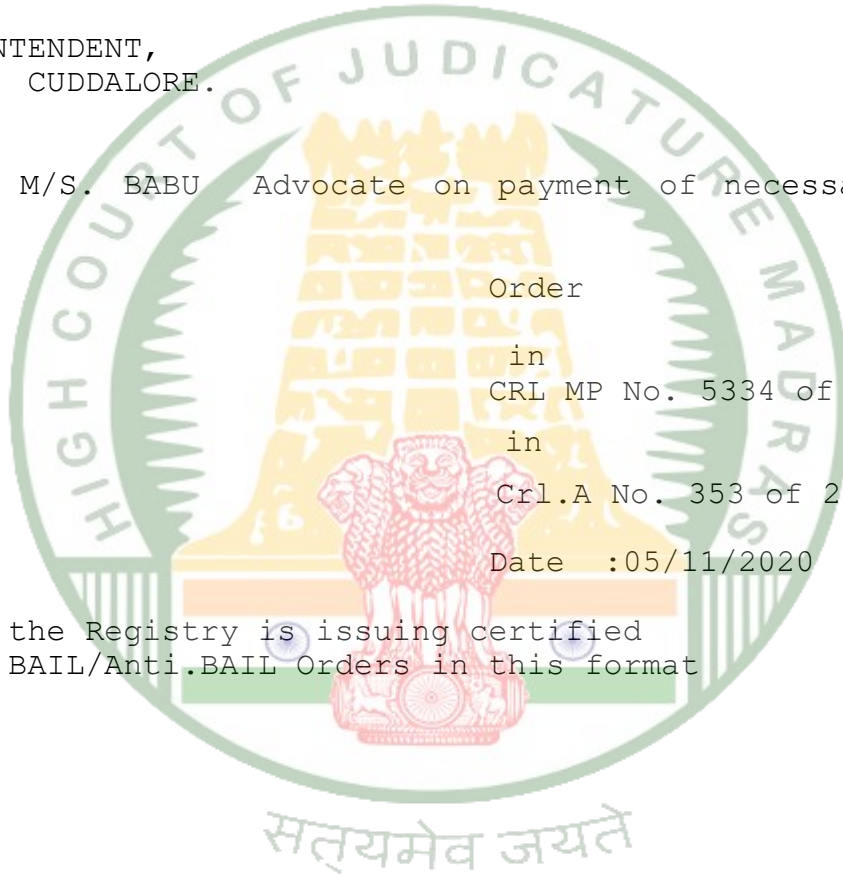
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Date :05/11/2020

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RVR 06/11/2020



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