

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

Coram

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

CRL MP No. 5667 of 2020  
in Crl.A No. 377 of 2020

Sivakumar @ Sundaramurthy ... Petitioner

vs

The State Rep. by  
The Inspector of Police,  
Orathur Police Station,  
Cuddalore District. ... Respondent

Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed in S.C.No.325 of 2018 dated 07.03.2020 on the file of II Additional Sessions Judge, Chidambaram and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner .. Mr.R.Sankarasubbu

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

ORDER

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

The petitioner has been arrayed as sole accused in S.C.No. 325 of 2018 on the file of II Additional Sessions Judge, Chidambaram. The trial Court by judgment dated 07.03.2020 convicted the petitioner for the offence punishable under Sections 449 and 302 IPC. For the offence punishable under Section 449 IPC, sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month rigorous imprisonment and for the offence punishable under Section 302 IPC, sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month rigorous imprisonment. Seeking to suspend the sentence, the present petition has been filed.

2. The case of the prosecution is that in a drunken brawl involving the petitioner and the deceased, the deceased was attacked in the homicide.

3. Learned counsel appearing for the petitioner submitted that the petitioner has been under incarceration for more than 860 days. Even as per the case of the prosecution, both of them were drunk. The motive has not been proved. Therefore, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that though the petitioner has been under incarceration, the trial Court rightly convicted the petitioner by taking into consideration the motive and the evidence including the eye witness and, therefore, this petition will have to be dismissed.

5. We have perused the records. Admittedly, the petitioner has been under incarceration for more than 860 days. It is stated that both the petitioner and the deceased were in a drunken state. Thus, taking into consideration the above coupled with the fact that there are issues to be decided in the appeal, 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 II Additional Sessions Court, Chidambaram 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/-

19/11/2020

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 II ADDITIONAL SESSIONS COURT,  
CHIDAMBARAM.

2 THE SUPERINTENDENT,  
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
ORATHUR POLICE STATION,  
CUDDALORE DISTRICT.

+1C.C. to M/S.R.SANKARASUBBU Advocate on payment of  
necessary charges SR NO.7674

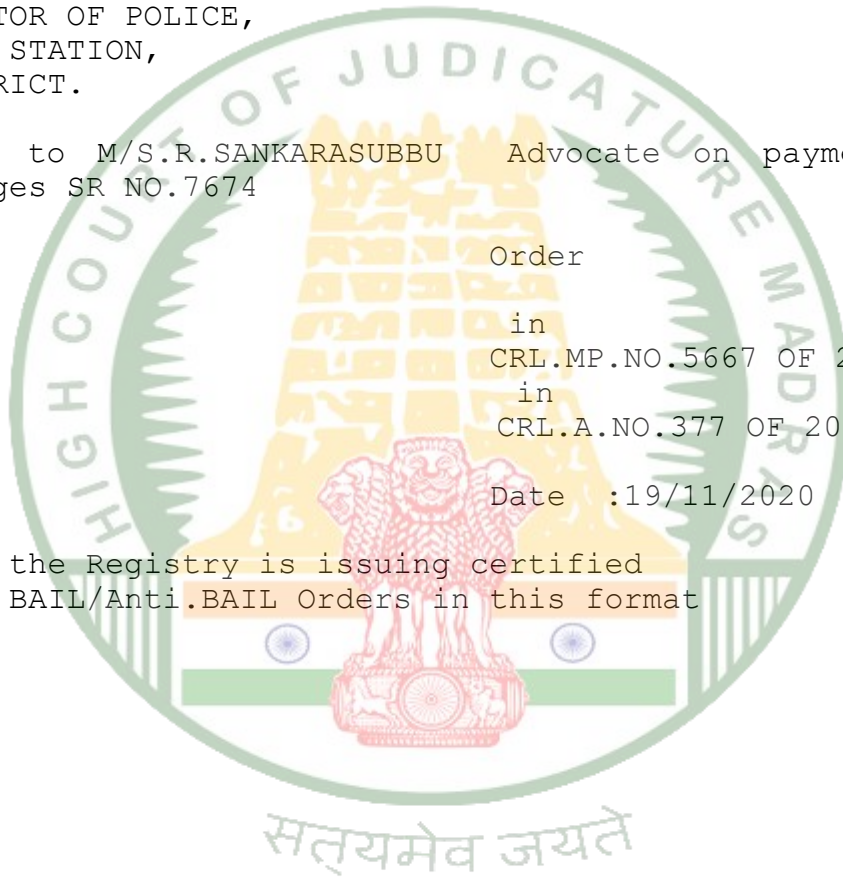
Order

in  
CRL.MP.NO.5667 OF 2020  
in  
CRL.A.NO.377 OF 2020

Date :19/11/2020

From 7.2.2001 the Registry is issuing certified  
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MK:19/11/2020



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