

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 5718 of 2020

in Crl.A No. 379 of 2020

Vijayakumar

... Petitioner

vs

State by
Inspector of Police,
Negamam Police Station,
Coimbatore District.

... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed in S.C.No.114 of 2019 dated 22.01.2020 on the file of the Additional District and Sessions Judge No.I, Coimbatore pending disposal of the Criminal Appeal.

For Petitioner .. Mr.B.Mohan

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. 114 of 2019 on the file of the I Additional District and Sessions Judge, Coimbatore. He was accordingly convicted for the offence punishable under Section 302 IPC by judgment dated 22.01.2020 and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that after deserting the husband, the deceased was in a live in relationship with this petitioner. On the date of occurrence, pursuant to a wordy quarrel, the petitioner attacked her with the knife and committed the offence.

3.Learned counsel appearing for the petitioner submitted that it is a case of circumstantial evidence. It is the petitioner who took the deceased to the hospital. Therefore, the subsequent conduct will have to be seen. He has been under incarceration for nearly 11 months as of now. Thus, the sentence imposed on the petitioner will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that the plea of alibi stated by the petitioner was rejected by the trial Court. Though the petitioner admitted the deceased in the hospital stating that she consumed poison whereas injuries were found. Admittedly, the petitioner was the only one available with the deceased at the time of occurrence. This coupled with the fact that the petitioner was seen along with the deceased by the prosecution witness, made the trial Court to render conviction.

5.Considering the submissions made and particularly, the period of incarceration, we are inclined to suspend the sentence. It is a case of circumstantial evidence and the circumstances which led to the occurrence also will have to be seen, even assuming the petitioner is stated to have committed the offence. Thus, considering the above, 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.II, Pollachi 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/-

21/12/2020

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.II, POLLACHI

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE (FOR INFORMATION)

3 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
NEGAMAM POLICE STATION,
COIMBATORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S.B.MOHAN Advocate on payment of necessary charges
Sr.8528

Order

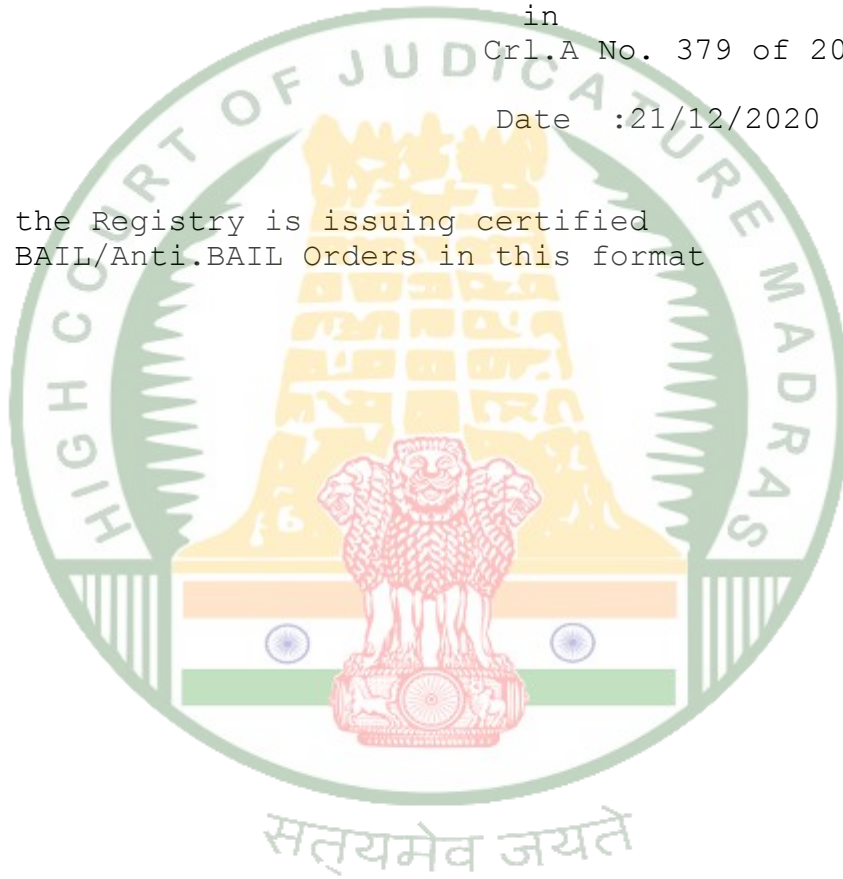
in
CRL MP No. 5718 of 2020

in
Crl.A No. 379 of 2020

Date :21/12/2020

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RVR 22/12/2020



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