

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No.6367 of 2020

in

CrI.A.No. 414 of 2020

A.Ramachandran

... Petitioner

vs

State by

The Inspector of Police,
E3 Saravanampatty Police Station,
Coimbatore City.
(Crime No.575/2018)

... Respondent

Petition filed under Section 389(2) of Cr.P.C. to suspend the sentence imposed on the petitioner by the I Additional District and Sessions Judge of Coimbatore in S.C.No.4 of 2019 dated 22.07.2019 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner .. Mr.K.Thilageswaran

For Respondent .. Mr.K.Prabakar,
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.4 of 2019 for the alleged offence punishable under Sections 302 and 506(ii) IPC. The trial Court, by judgment dated 22.07.2019, convicted the petitioner for the offence under Sections 302 and 506(ii) IPC 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 three months simple imprisonment and for the offence under Section 506(ii) IPC, sentenced him to undergo one year rigorous imprisonment and ordered the sentences to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased was having an affair with the petitioner's wife. Enraged over it, in a drunken brawl, the petitioner attacked the deceased and committed the offence.

3.Learned counsel appearing for the petitioner submitted that the petitioner has been under incarceration pending trial and even thereafter, for a period of two years as of now. There is a material discrepancy in the evidence of P.W.1 with respect to the very registration of the F.I.R. itself. Thus, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that there are eye witnesses available in the form of P.Ws.1, 3 and 5. The occurrence was in the liquor shop. The trial Court considered the evidence and convicted the petitioner. Thus the petition will have to be dismissed.

5.The fact remains that the petitioner has been under incarceration from 06.08.2018 onwards. Thus, more than two years have elapsed. The occurrence is said to have taken place in a liquor shop. The case itself is that the deceased was having affair with the wife of the petitioner. Therefore, prima facie we are of the view that it is a case of sustained provocation and therefore the case might come under Section 304 I IPC and not under 302 IPC.

6.Considering the above and taking into consideration the period of incarceration, 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, Coimbatore and on further condition that the petitioner shall stay at Erode and report before the Town Police Station, Erode every day at 10.30 a.m. until further orders.

-sd/-

02/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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

High Court, Madras - 600 104.

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TO

1 THE JUDICIAL MAGISTRATE,
NO.II, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E-3, SARAVANAMPATTY POLICE STATION,
COIMBATORE CITY.

5 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

6 THE OFFICER INCHARGE,
ERODE TOWN POLICE STATION, ERODE.

7 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S. K.THILAGESWARAN Advocate on payment of necessary
charges Sr.7180

Order

in

CRL MP No.6367 of 2020

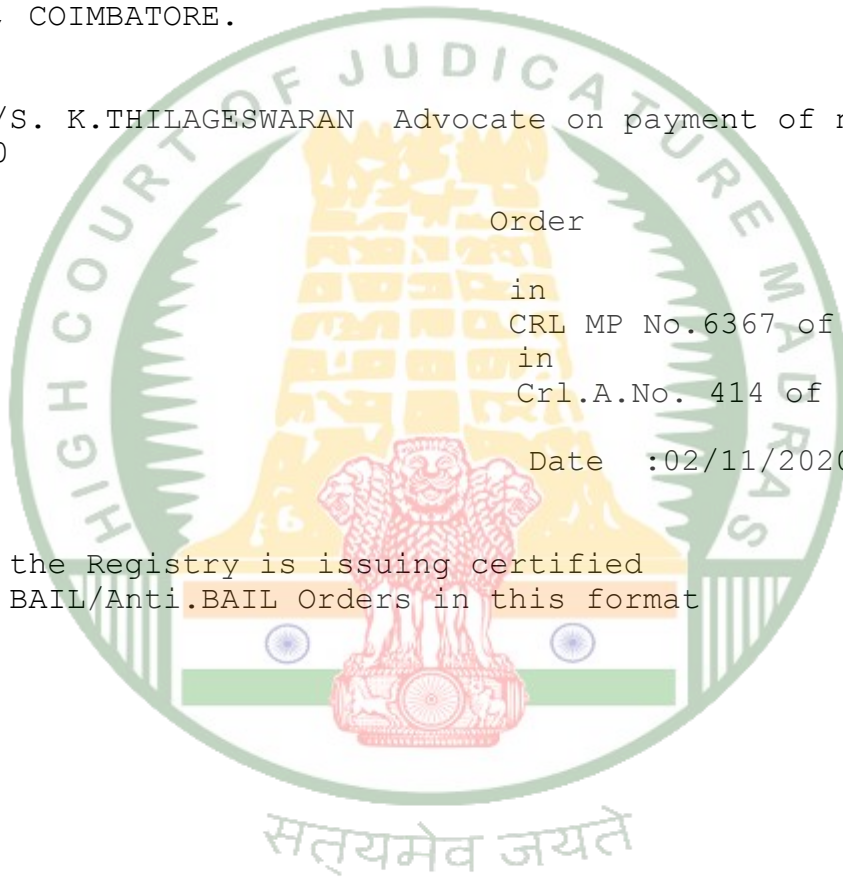
in

CrI.A.No. 414 of 2020

Date :02/11/2020

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RVR 04/11/2020



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