

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.M.P. No. 7722 of 2020
in
Crl.A. No. 458 of 2019

ANBU @ ANBURAJ

..Petitioner

Vs.

State rep. by
Inspector of Police,
Bhavani Police Station,
Erode District.
Cr.No. 48 of 2012

..Respondent

Prayer: Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in the judgement dated 03.01.2018 made in S.C.No. 133 of 2015 on the file of the IV Additional District and Sessions Judge, Erode at Bhavani and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner .. Mr.T. Muruganantham

For Respondent .. Mr.R. Prathapkumar
Addl. Public Prosecutor
ORDER

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

The petitioner has been arrayed as A1 along with one other accused, who died pending trial in S.C. No. 133 of 2015 on the file of IV Additional District and Sessions Judge, Erode at Bhavani. The trial Court by judgment dated 03.01.2018 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default to undergo six months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the deceased and the accused were involved in a quarrel pursuant to a disparaging remark made against the mother of the petitioner. At the relevant point of time, the deceased and the petitioner were fully drunk. Thereafter, the petitioner attacked the deceased with a knife. As stated above, pending trial, A2 died.

3. Learned counsel appearing for the petitioner submitted that this is a case of sustained provocation even as per the version of the prosecution. The petitioner has been under incarceration for nearly 3 years from the date on which the judgment was delivered i.e, from 03.01.2018 onwards. Hence, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that there are eye witnesses available to the occurrence i.e, P.W.s 1 to 3. Though P.W.4 turned hostile, the Trial Court has rightly relied upon the evidence of P.Ws. 1 to 3 to render conviction. Hence, the petition will have to be dismissed.

5. We find that the petitioner is entitled for suspension of sentence. Both the petitioner and the deceased were found to be under the influence of alcohol at the time of occurrence and the petitioner has been under incarceration for nearly 3 years. 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, Bhavani 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/-

11/12/2020

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,
BHAVANI

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
BHAVANI POLICE STATION,
ERODE DISTRICT.

5 THE IV ADDITIONAL DISTRICT AND
SESSIONS COURT, ERODE AT BHAVANI

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S. T.MURUGANANTHAM Advocate on payment of necessary
charges SR.8139

Order

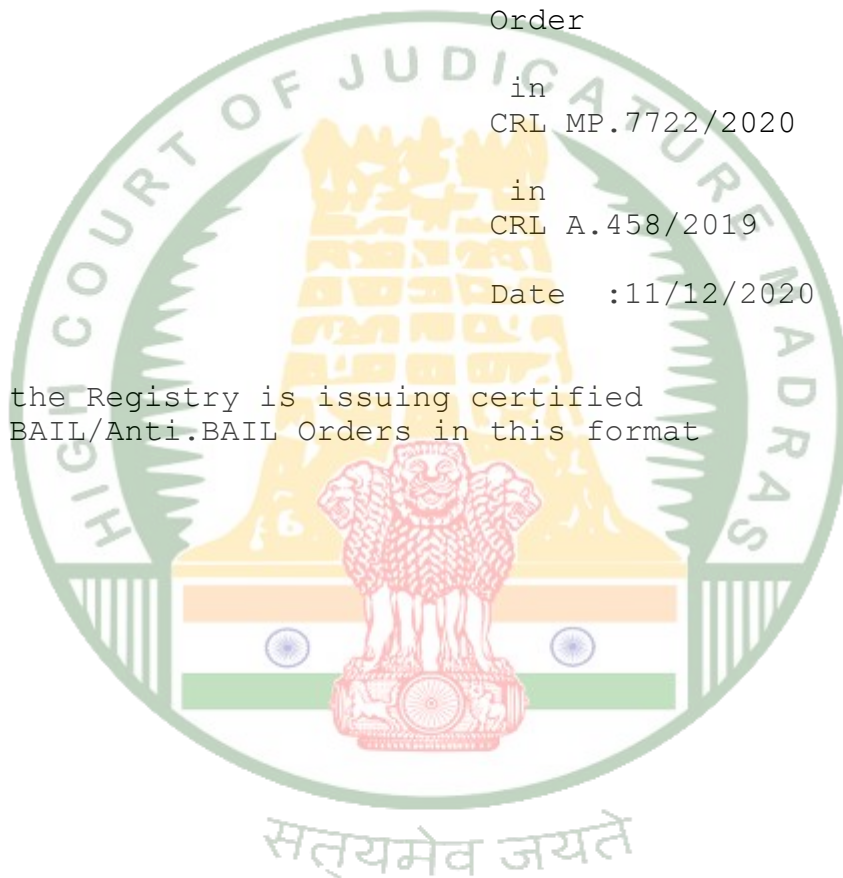
in
CRL MP.7722/2020

in
CRL A.458/2019

Date :11/12/2020

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RVR 11/12/2020



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