

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 8378 of 2020

in Crl.A No. 629 of 2018

Muthupandi

.... Petitioner

vs

State rep. by
The Inspector of Police,
B-6, Peelamedu Police Station,
Coimbatore District.

... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence passed in S.C.No.304 of 2015 on 06.05.2016 by Special Judge for Bomb Blast Case, Coimbatore and enlarge the petitioner on bail till the disposal of the appeal in Crl.A.No. 629 of 2018.

For Petitioner .. Mr.R.Radha Pandian

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. 304 of 2015 on the file of Special Judge for Bomb Blast Case, Coimbatore. By judgment dated 06.05.2016, the petitioner was convicted for the offence punishable under Section 302 IPC and accordingly sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment. The earlier application was dismissed on 20.03.2019. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the petitioner suspected the deceased for his missing phone. Accordingly, he attacked him with hammer. This resulted in a quarrel between the petitioner and the deceased. Thereafter, the petitioner committed the offence when the deceased was sleeping.

3.Learned counsel appearing for the petitioner submitted that the trial Court has wrongly relied upon the other witnesses. The witness were under the influence of the alcohol and so also the deceased. The injury seen on the body of the deceased as per the post-mortem certificate do not tally with the evidence adduced by the eye witnesses. Though the earlier petition was dismissed on 20.03.2019, these aspects have not been looked into by this Court and more than one and half years have elapsed since then. Thus, this petition will have to be allowed.

4.Learned Additional Public Prosecutor appearing for the State submitted that inasmuch as the earlier petition was dismissed by this Court on merit coupled with the eye witness available, this petition requires to be dismissed.

5.The judgment was rendered on 06.05.2016. Now, four and half years have elapsed. The witness and the deceased were stated to be under the influence of alcohol. One has to see the weapon used, which is the hammer. On the first occasion, it is the deceased who attacked the petitioner. Thus taking into consideration the facts of the case and particularly the fact that the petitioner has been under incarceration for more than four and half years, 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 Special Session Judge for Bomb Blast Case, Coimbatore 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/-
23/12/2020

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 SPECIAL JUDGE FOR
BOMB BLAST CASE, COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B-6, PEELAMEDU POLICE STATION,
COIMBATORE DISTRICT.

C.C. to M/S.R.RADHA PANDIAN Advocate on payment of necessary
charges

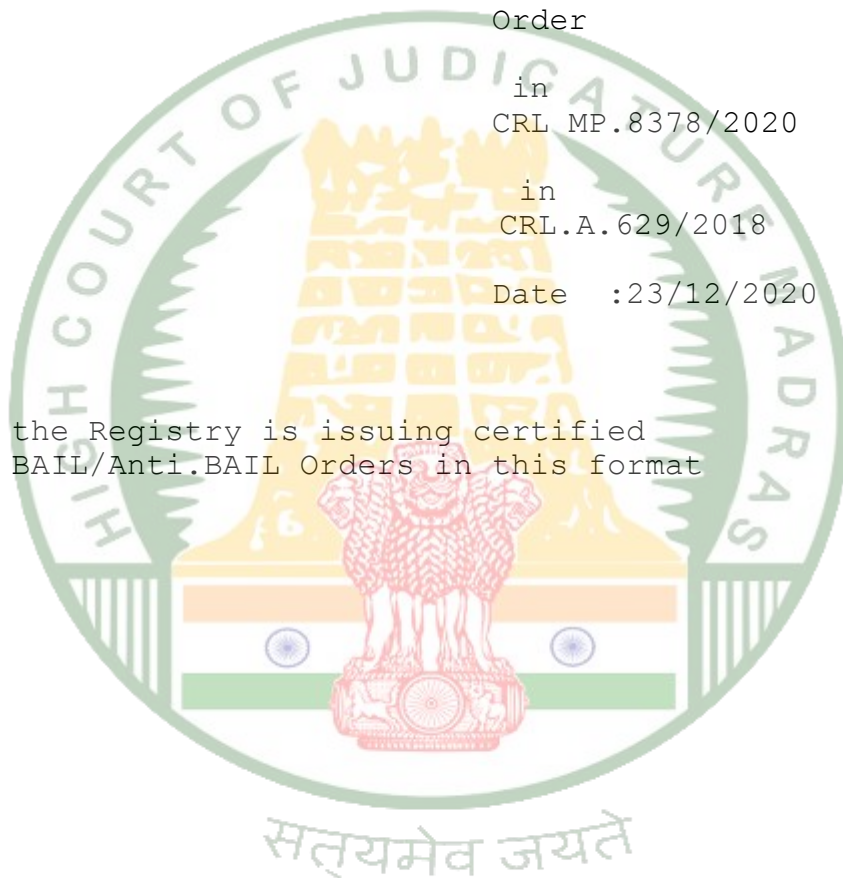
Order

in
CRL MP.8378/2020

in
CRL.A.629/2018

Date :23/12/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 23/12/2020



WEB COPY