

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 8261 of 2020

in CrI.A No.75 of 2020

Elumalai

... Petitioner

vs

State rep. by
The Inspector of Police,
SIPCOT Police Station,
Ranipet, Vellore District.

... Respondent

Petition filed under Section 389(1) of Cr.PC to suspend the sentence passed by the II Additional District and Sessions Judge, Ranipet, Vellore District in S.C.No.217 of 2010 dated 10.04.2013 pending disposal of the appeal.

For Petitioner .. Mr.C.R.Malarvannan

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. 217 of 2010 on the file of the II Additional District and Sessions Judge, Ranipet, Vellore District. He was accordingly convicted for the offence punishable under Sections 302 IPC and 25(1-B)(a) of Arms Act by judgment dated 10.04.2013 and for the offence punishable under Section 302 IPC, he was sentenced to undergo life imprisonment and for the offence punishable under Section 25(1-B)(a) of Arms Act, he was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month rigorous imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased was having an illicit relationship with the wife of the petitioner. Aggrieved over the same, the petitioner went to the house of the deceased and attacked him with a single blow and committed the offence.

3.Learned counsel appearing for the petitioner submitted that from the date of judgment - 10.04.2013, the petitioner has been under incarceration. If the case of the prosecution is true, then it is a case of sustained provocation. Thus, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that there are eye witnesses in the form of P.Ws. 1 and 2. This coupled with the evidence of the medical expert made the trial Court to render conviction and thus the petition will have to be dismissed.

5.Now, more than seven years have elapsed since the conviction rendered by the trial Court. Thus, considering the above factor alone, 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, Walajahpet 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/-

17/12/2020

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.

सत्यमेव जयते

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, WALAJAHPET

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, RANIPET, VELLORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION, RANIPET,
VELLORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S.C.R.MALARVANNAN Advocate on payment of necessary
charges Sr.8337

Order

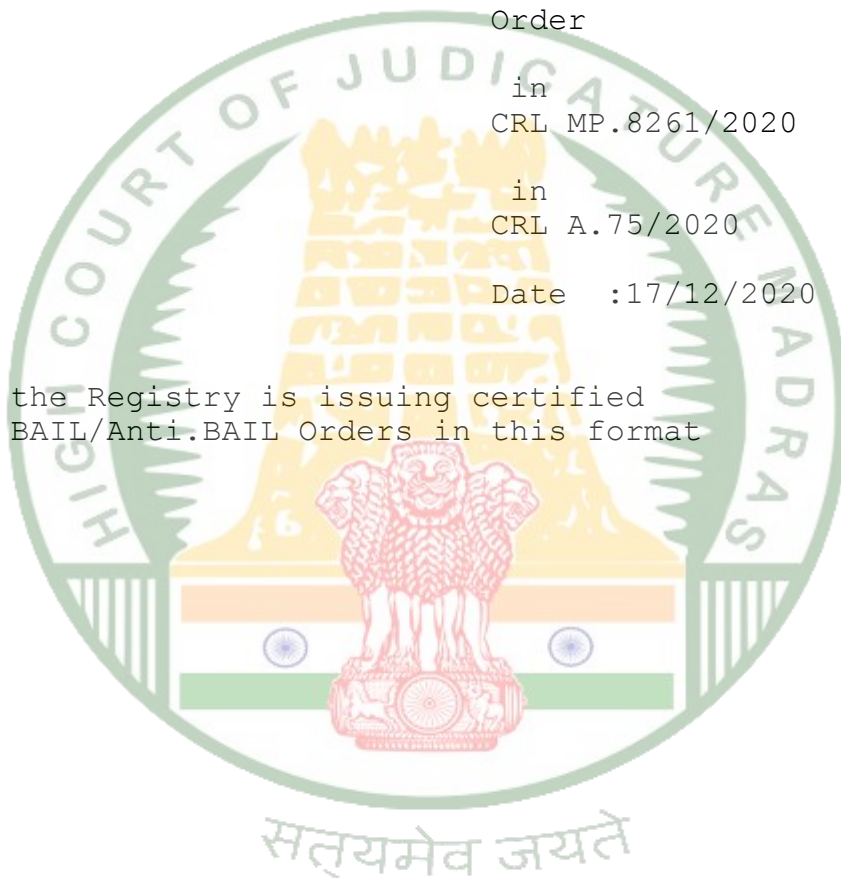
in
CRL MP.8261/2020

in
CRL A.75/2020

Date :17/12/2020

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RVR 18/12/2020



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