

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 Nos.12702 of 2019 & 569 of 2020

in Crl.A Nos. 565 and 461 of 2019

1.Baskar
2.Saravanan
3.Mohanasundaram
4.Athikesavan

... Petitioners
in Crl MP 12702/19

1.Krishnamoorthy @
Narayanasamy
2.Arumugam

... Petitioners
in Crl MP 569 of 2020

vs

The State Rep by
The Inspector of Police,
Kottakuppam PS,
Kottakuppam Circle,
Villupuram District.

... Respondent
in both cases

Petitions filed under Section 389(1) of Cr.P.C. to suspend and conviction imposed against the petitioners in S.C.No. 305 of 2016 on the file of I Additional District and Sessions Judge, Tindivanam and enlarge the petitioners on bail pending disposal of the appeal.

For Petitioners ... Mr.M.Ravikumar
in Crl MP 12702/19

Mr.L.Vinoth Kumar
in Crl. MP 569/2020

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

COMMON ORDER

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

The petitioners in CrI.M.P.No.12702 of 2019 have been arrayed as A1 to A3 and A6 and the petitioners in CrI.M.P.No.569 of 2020 have been arrayed as A4 and A5 respectively in S.C.No.305 of 2016 on the file of the I Additional District and Sessions Judge, Tindivanam. The trial Court by judgment dated 04.07.2019 convicted the A1 for the offence punishable under Section 294(b) IPC and sentenced to undergo three months simple imprisonment, convicted A1 and A4 for the offence punishable under Section 324 IPC and sentenced to undergo one year simple imprisonment, convicted A1 to A6 for the offence punishable under Section 148 IPC and sentenced to undergo three years rigorous imprisonment, convicted A2, A3 and A5 for the offence punishable under Section 323 IPC and sentenced to undergo one year simple imprisonment, convicted A1 to A6 for the offence punishable under Section 449 IPC and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.2,000/- each, in default, to undergo two months simple imprisonment, convicted A1 to A6 for the offence punishable under Section 302 r/w 149 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- each, in default, to undergo four months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2. On trial, A1 to A6 have been acquitted for the offence under Section 120 B IPC and A2, A3, A5 and A6 have been acquitted for the offence under Section 323 IPC. Some of the other accused have got their sentences suspended in the month of August, 2019.

3. Learned counsel appearing for the petitioners submitted that the case of the prosecution is that all the accused joined together and committed the offence. That is the reason why Section 149 IPC has been pressed into service. These petitioners have been under incarceration for more than one year. The date of judgment was on 04.07.2019. All of them belong to the same family. There is a civil dispute between the parties in which the deceased has filed a suit for specific performance. The dispute is with respect to the property purchased by A4. Thus, considering the above and taking note of the fact there are arguable points available in the appeal, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that the overt act attributed against each of the accused is different, though the occurrence is pursuant to the funeral followed by oral argument. The accused persons attacked the deceased after chasing him with wooden log and iron rod. In fact, even before the funeral the occurrence took place. The trial Court, considered all these aspects and, therefore, the present petition will have to be dismissed.

5. Admittedly, these petitioners were under incarceration for more than one year. All the co-accused, though the overt act attributed against them are different, got their sentences suspended. The offence is under Section 149 IPC along with other offence. We do find arguable points available in the appeal. The occurrence is said to have happened pursuant to a civil dispute and when all the parties went to attend the funeral. All these accused belong to the same family. Thus, taking into consideration the above said facts, we are inclined to suspend the sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of 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, Vanur (Crl.M.P.No.12702 of 2019) and the I Additional District Sessions Judge, Tindivanam, Villupuram (Crl.M.P.No.569 of 2020) and on further condition that the petitioners shall stay at Chennai and report before the Esplanade Police Station, High Court, Madras 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

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE I ADDITIONAL DISTRICT SESSIONS JUDGE,
TINDIVANAM, VILLUPURAM DISTRICT.

2 THE JUDICIAL MAGISTRATE,
VANUR.

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE
[CAPPER HILLS CUDDALORE 607401]

5 THE INSPECTOR OF POLICE,
KOTTAKUPPAM PS,
KOTTAKUPPAM CIRCLE,
VILLUPURAM DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE OFFICER INCHARGE
ESPLANADE POLICE STATION,
HIGH COURT, MADRAS.

+1 C.C. to M/S.L.VINOTH KUMAR Advocate on payment of necessary
charges SR.No.7213

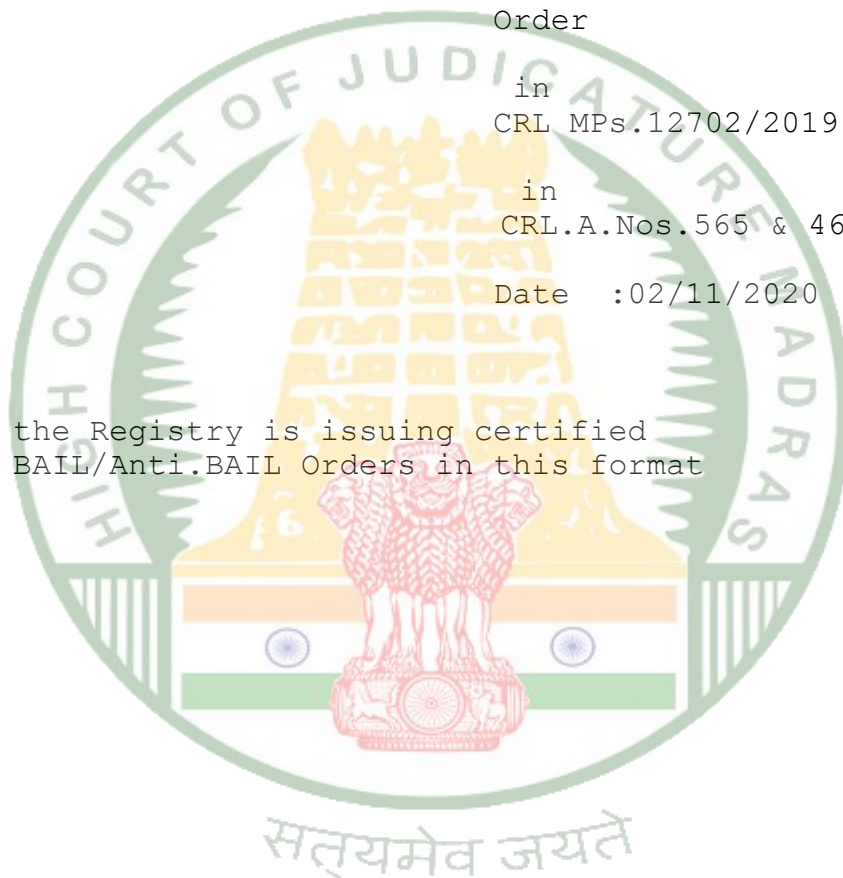
Order

in
CRL MPs.12702/2019 & 569/2020

in
CRL.A.Nos.565 & 461/2019

Date :02/11/2020

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