

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 17484 of 2019

in CrI.A No.813 of 2019

Suresh

... Petitioner

vs

The State by

The Inspector of Police,

Thiruppathur Taluk Police Station. ... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed in S.C.No.148 of 2015 dated 19.03.2019 on the file of the Sessions Judge, Fast Track Mahalir Court (Sessions Court), Vellore, Vellore District pending disposal of the Criminal Appeal.

For Petitioner .. Ms.Shantha Kumari

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. 148 of 2015 on the file of the Sessions Judge, Fast Track Mahalir Court (Sessions Court), Vellore, Vellore District. He was accordingly convicted for the offence punishable under Sections 498 A and 302 IPC by judgment dated 19.03.2019. For the offence punishable under Section 498 A IPC, the petitioner 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 and for the offence punishable under Section 302 IPC, the petitioner was sentenced to undergo life 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.Learned counsel appearing for the petitioner submitted that the eye witnesses, namely, P.Ws 3 and 4 have turned hostile. Even P.W.1 stated that the petitioner was not available at the time of occurrence. The deceased was attempting suicide on the earlier two occasions as admitted by P.W.1. The trial Court merely placing reliance upon Ex.P9 - dying declaration coupled with the statement made by the learned Magistrate.

3.Learned Additional Public Prosecutor appearing for the State submitted that having found that the confession statement inspires confidence coupled with the evidence of the jurisdictional Magistrate, the trial Court rendered conviction.

4.The petitioner has been under incarceration from 19.03.2019 onwards. The eye witnesses turned hostile. Even P.W.1, has stated that at the time of occurrence, the petitioner was not available and the deceased did make an attempt to commit suicide on two earlier occasions. Thus, the question for consideration in this appeal is as to whether the dying declaration as recorded inspires confidence of the Court as against the other witnesses which the petitioner seeks to rely upon. Considering the above coupled with the period of incarceration, we are inclined to suspend the sentence.

5.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, Thirupathur 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/-
21/12/2020

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 SESSIONS JUDGE,
FAST TRACK MAHALIR COURT (SESSIONS COURT),
VELLORE, VELLORE DISTRICT.

2 THE JUDICIAL MAGISTRATE,
NO.II, THIRUPATHUR.

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

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
THIRUPPATHUR TALUK POLICE STATION.

+1 C.C. to M/S. S.SHANTHA KUMARI Advocate on payment of necessary
charges SR.No.8476

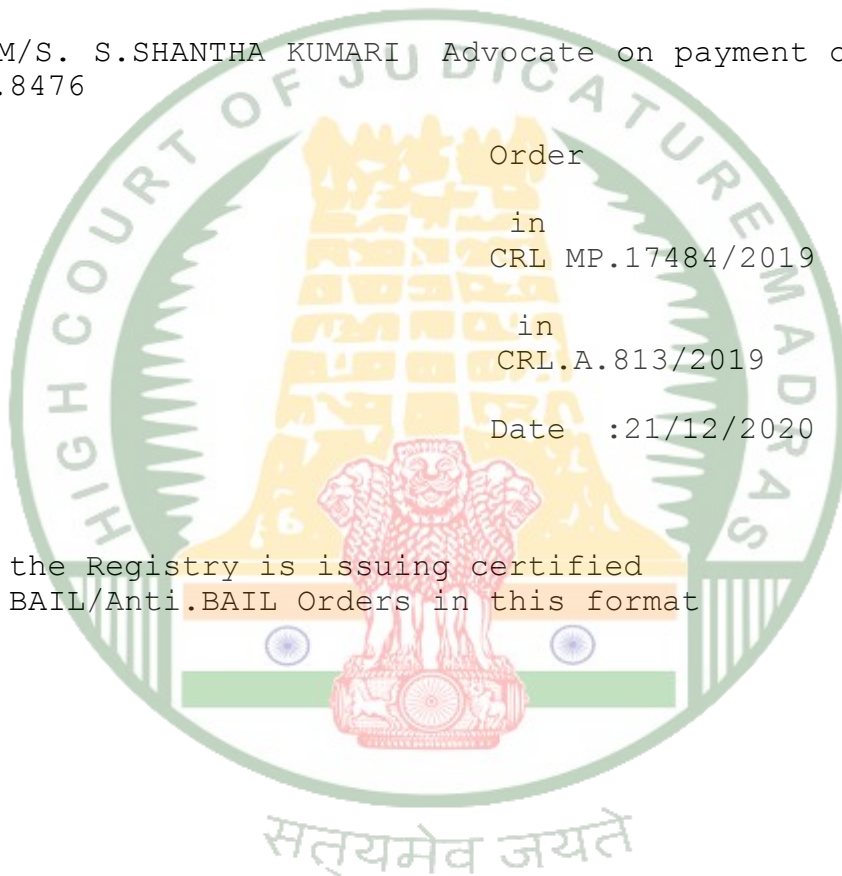
Order

in
CRL MP.17484/2019

in
CRL.A.813/2019

Date :21/12/2020

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