

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of January Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mr Justice V. SIVAGNANAM

CRIMINAL MISCELLANEOUS PETITION No.2359 of 2020

IN CRL A.549/2019

M.AJITH

[PETITIONER/APPELLANT]

Vs

THE STATE REPRESENTED BY [RESPONDENT/COMPLAINANT]
THE DEPUTY SUPERINTENDENT OF POLICE,
NEYVELI SUB DIVISION,
NEYVELI, CUDDALORE DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed in Special Sessions Case No.51/2018 dated 21.12.2018 by the Learned Sessions Judge, Mahila Court, Cuddalore and enlarge the petitioner on bail pending disposal of the above C.A.NO.549/2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.K.RAJA, Advocate for the petitioner, and of MR.K.PRABAKAR, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by P.N.PRAKASH., J)

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 21.12.2018 in S.C.No. 51 of 2018 on the file of Sessions Judge, Mahila Court, Cuddalore and to enlarge the petitioner on bail till the disposal of the appeal.

2. The petitioner, who was an accused in S.C.No. 51 of 2018 before the Sessions Judge, Mahila Court, Cuddalore, was convicted and sentenced as follows:

<i>S.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Section 366 IPC	Rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo one year simple imprisonment.
2	Section 6 of POCSO Act r/w Sec 3(2)(v) of SC/ST (POA) Act	Imprisonment for life and to pay a fine of Rs.20,000/-, in default, to undergo two years simple imprisonment.

The aforesaid sentences were ordered to run concurrently and set off was also granted under Section 428 Cr.P.C.

3. Challenging the above conviction and sentences, the petitioner has filed CrI.A.No.143 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard, the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

5. This is the second bail application. The earlier bail application in CrI.M.P.No. 12094 of 2019 in CrI.A.No. 549 of 2019 has been dismissed as withdrawn on 05.11.2019.

6. It is the case of the prosecution that the victim girl was aged about 11 years and was mentally challenged.

7. Learned counsel for the petitioner contended that the prosecution had not marked any medical certificate to show that the victim girl was mentally challenged. He further contended that the medical examination of the girl did not reveal the presence of semen in her private parts. It is seen that the victim girl and the petitioner were found behind sugarcane crop by P.Ws 2 and 3, heard the moaning of the victim girl. When they went near, they saw the petitioner fleeing and the victim girl was lying on the floor with her dress dishevelled. Thus, in our considered opinion, it is the powerful circumstance against the petitioner.

8. In the teeth of the above, it is not a fit case to grant suspension of sentence and the miscellaneous petition is dismissed.

-sd/-

27/01/2021

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,
MAHILA COURT, CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
NEYVELI SUB DIVISION,
NEYVELI, CUDDALORE DISTRICT.

C.C. to M/S.K.RAJA Advocate on payment of necessary charges

Order

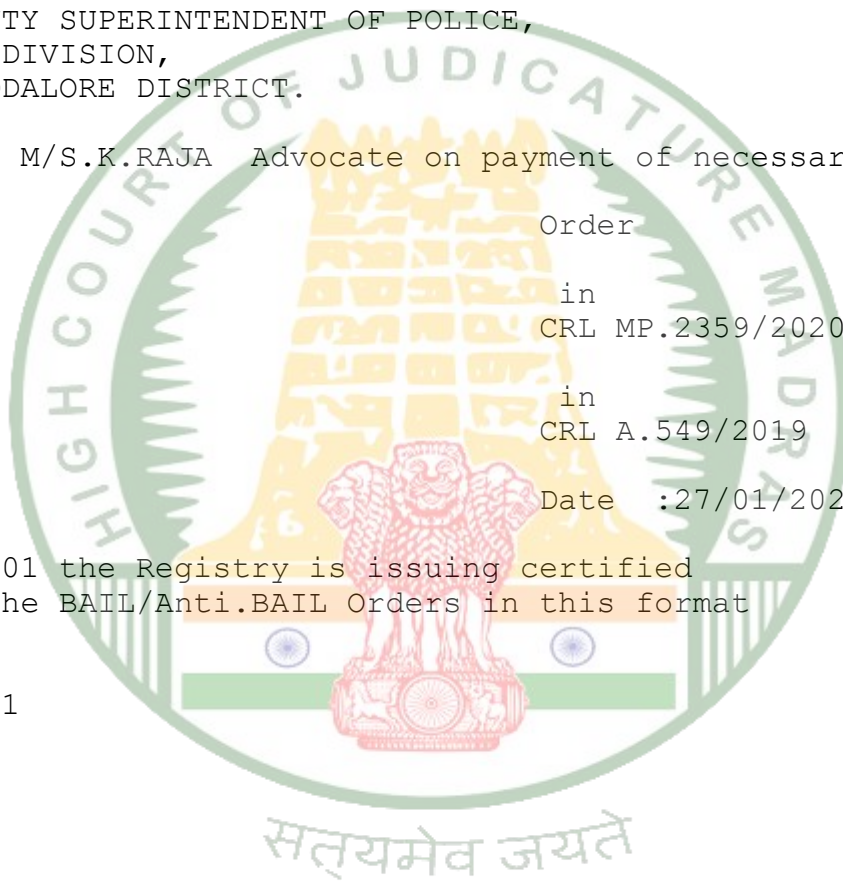
in
CRL MP.2359/2020

in
CRL A.549/2019

Date :27/01/2021

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TA-05/02/2021



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