

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixth day of January Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION NO.7749 OF 2020

IN CRL.A.NO.165 OF 2020

RAJESH

[PETITIONER / APPELLANT / ACCUSED]

Vs

STATE

[RESPONDENT / COMPLAINANT]

REPRESENTED BY,
INSPECTOR OF POLICE,
THIRUKKANUR POLICE STATION
PUDUCHERRY STATE
CRIME NO. 44/2016

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.165 OF 2020 on the file of the High Court, the High Court will be pleased to suspend the sentence vide judgement dated 30.01.2020 in Special S.C.No.14/2016 on the file of Learned Special Judge under POCSO, ACT 2012 and Principal Sessions Judge Puducherry convicting and sentencing the Petitioner/Appellant to undergo 7 years rigorous imprisonment under section 365 Indian Penal Code, 1960 (as amended) and also to pay a fine of sum of Rs.1000 in default to undergo 3 months rigorous imprisonment and also convicting and sentencing him under section 6 of the POCSO, Act to undergo 10 years Rigorous Imprisonment and also to pay a fine of Rs.1000 in default to undergo 3 months Rigorous Imprisonment; and be release him on bail pending disposal of the above CRL.A.NO.165 OF 2020 [IN CRL.MP.NO.7749 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.165 OF 2020 on the file of the High Court and upon hearing the arguments of M/S. DR.G.KRISHNAMURTHY, for the petitioner and of MR.K.MADHAN Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 30.01.2020 passed in Spl.S.C.No.14 of 2016 on the file of the learned Special Judge under POCSO Act 2012 and Principal and Sessions Judge, Puducherry.

2. The learned counsel for the petitioner would submit that the petitioner who was arrayed as accused in Spl.S.C.No.14 of 2016 was convicted and sentenced for the offence under Section 365 IPC to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.1000/-, in default, to undergo three months rigorous imprisonment ; and also for the offence under Section 6 of the Protection of Children for Sexual Offences Act 2012 to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1000/-, in default, to undergo three months rigorous imprisonment. He would further submit that the petitioner is in custody for more than 1 ½ years and there is no material to show that offence under Section 365 Cr.P.C is made out and the trial Court has wrongly convicted and sentenced the petitioner. Therefore, he prays to grant suspension of sentence to the petitioner.

3. Heard the learned counsel on either side and perused materials available on record.

4. It is seen from the records that the victim girl was examined as P.W.3 and she has clearly narrated the facts in her evidence and the prosecution has proved the case beyond all reasonable doubts. Therefore, the trial Court convicted the petitioner since the victim girl is aged about 16 years. The trial Court after considering the entire materials found that the prosecution has proved the case and convicted and sentenced the petitioner. There is no ground made out to grant suspension of sentence to the petitioner. Considering the serious gravity of the offence committed by the petitioner under POCSO Act, this Court is not inclined to entertain the miscellaneous petition, seeking suspension of sentence and hence the same is dismissed.

5. The Registry is directed to call for records from the Court below within a week, prepare the typed set of papers and list the appeal for final hearing on 01.02.2021.

-sd/-

06/01/2021

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 SPECIAL JUDGE UNDER
POCSO ACT 2012 AND PRINCIPAL AND SESSIONS JUDGE,
PUDUCHERRY.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY.

3 THE PUBLIC PROSECUTOR
PUDUCHERRY.

4 THE INSPECTOR OF POLICE,
THIRUKKANUR POLICE STATION,
PUDUCHERRY STATE

+1C.C. to M/S. DR.G.KRISHNAMURTHY Advocate on payment of
necessary charges SR NO.106

Order

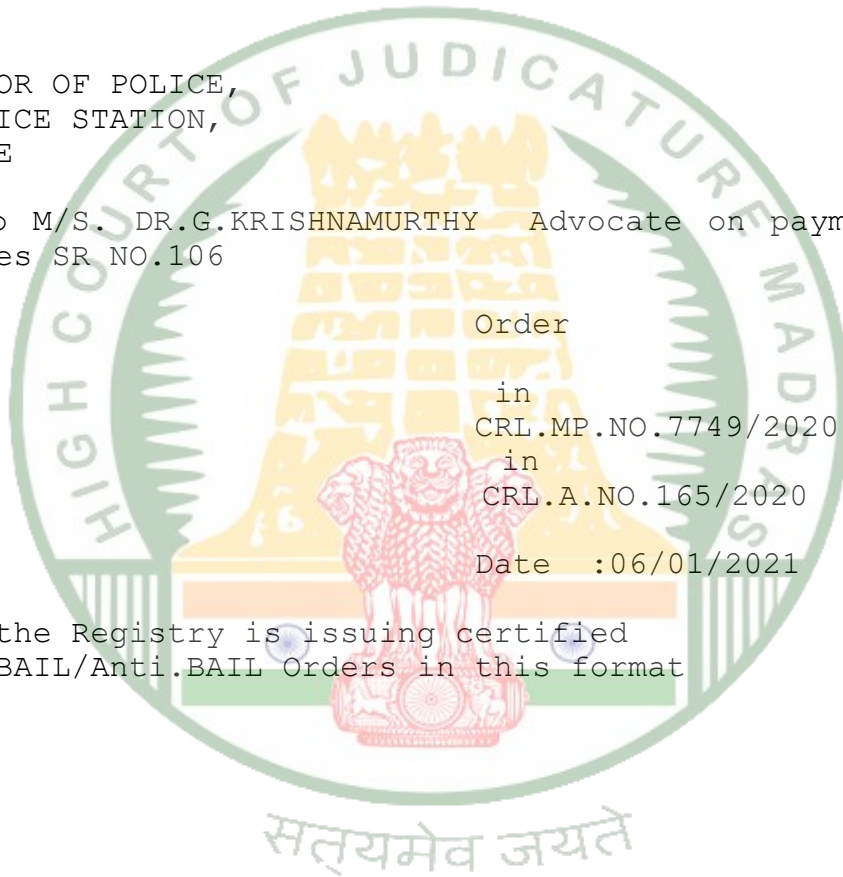
in
CRL.MP.NO.7749/2020

in
CRL.A.NO.165/2020

Date :06/01/2021

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

MK:08/01/2021



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