



*Crl. R.C.(MD)No.308 of 2023*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATE : 29.03.2023

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

Crl.R.C.(MD)No.308 of 2023  
and  
Crl.M.P(MD)No.4750 of 2023

Sakthi @ Sakthiyendran

.. Petitioner

Vs.

The Inspector of Police,  
Keerathurai Police Station,  
Madurai City.  
Crime No.413 of 2021

.. Respondent

Prayer : This criminal revision case is filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records in Cr.M.P.No.1979 of 2022 in C.C.No.17 of 2022, dated 30.01.2023 pending on the file of the learned II Additional Special Court for Trial of NDPS Act cases, Madurai and set aside the same.

For Petitioner : Mr.G.Karuppasamy Pandiyan,

For Respondent : Mr.R.Meenakshi Sundaram,  
Additional Public Prosecutor.



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## **ORDER**

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The Criminal Revision Case is directed against the order passed in Cr.M.P.No.1979 of 2022 in C.C.No.17 of 2022, dated 30.01.2023 on the file of the learned II Additional Special Court for Trial of NDPS Act cases, Madurai, dismissing the petition filed under Section 45 of Indian Evidence Act.

2. The petitioner is the third accused in C.C.No.17 of 2022 for the offence under Section 8(C), r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act and under Section 25(1-B) (b) of Arms Act.

3. It is not in dispute that the prosecution, after examination of their witnesses, has closed their side evidence and that when the case stood posted for defence evidence, the third accused has filed the above application under Section 45 of Indian Evidence Act, seeking orders to send the electronic document in the form of Compact Disc to Central Forensic Science Laboratory, Hyderabad to retrieve the data in the Disc. The prosecution has filed their counter statement raising serious objections. The learned trial Judge, after enquiry, has passed the impugned order, dated



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30.01.2023, dismissing the petition. Aggrieved by the dismissal order, the third accused has come forward with the present revision.

4. The prosecution case is that on 08.07.2021 at about 13.15 hours, on receiving secret information that one Murugan @ Load Murugan with his mates bringing the Ganja in one vehicle, namely, Breeza White Car bearing Registration No.TN 59 CK 3492 for the sale of Ganja in the Madurai area from Mela Anupanadi nearby Chinthamani Check Post and that the respondent police, immediately formed a team and arrested all the accused and seized the said car, and one two wheeler along with 30 kgms of Ganja available in the said car.

5. The learned counsel for the petitioner would contend that the petitioner was working as a Field Officer in Saveri Transport Finance Private Limited, situated at North Veli Street, Yanakkal, Madurai, that on the date of occurrence, when the petitioner was working in his Office, two Police officers came to the petitioner's office and enquired about him and also took the petitioner along with them and thereafter, foisted the above false case, as if the petitioner along with other accused travelled in a car from which, they have recovered the alleged contraband.



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6. The learned counsel for the petitioner would further contend that the petitioner, in order to prove that he was very much available in his Office and he was not at all available at the place of occurrence, has filed a petition in Crl.M.P.No.379 of 2021 to summon the Attendance Register and CCTV Footage available in the Saveri Transport Finance Private Limited; that the said application was allowed and the Branch Manager of the said concern was directed to produce the Attendance Register and CCTV Footage, dated 08.07.2021 for the period between 11.00 hours to 14.00 hours and that in pursuance of the said direction, the Branch Manager has produced the CD before the jurisdictional Court.

7. He would further submit that they came to know that the CD, which was available in the Court got damaged and that therefore, the petitioner was constrained to file the above application to send the damaged CD to the Forensic Laboratory to retrieve the data available in the said CD.

8. When the matter was taken up on earlier, the learned counsel for the petitioner and the learned Additional Public Prosecutor, on instructions from the respondent Police, submitted that the copy of the CD, which got damaged, is not available with them and that this Court directed



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them to get the correct stand of the petitioner and the prosecution with respect to the availability of any other electronic instrument containing the CCTV footage recorded in the Saveri Transport Finance Private Limited.

9. When the matter was taken up for hearing on 28.03.2023, the learned counsel for the petitioner submitted that they are having a pendrive containing some short clippings of the CCTV footage and the footage is not clear. The learned Additional Public Prosecutor submitted that the respondent Police is also having a pendrive containing the alleged CCTV footage. Considering the submissions made, this Court directed the learned counsel for the petitioner and the learned Additional Public Prosecutor to view the video footage available with them.

10. When the matter is taken up for hearing today (i.e., 29.03.2023) the learned counsel for the petitioner and the learned Additional Public Prosecutor would submit that both of them have viewed the footage available in both the pendrives and that the video footage found in the pendrive available with the Police is having somewhat clarity than the one available with the petitioner side.



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11. At this juncture, the learned counsel for the petitioner would submit that the petitioner is not pressing the petition filed under Section 45 of Indian Evidence Act to send the Compact Disc to the Central Forensic Science Laboratory, Hyderabad to retrieve the data, since the pendrives are now available. The submission made by the learned counsel for the petitioner that he is not pressing the petition filed under Section 45 of Indian Evidence Act is recorded.

12. The learned counsel for the petitioner would further submit that the petitioner may be permitted to produce the pendrive available with them and also to direct the prosecution to produce the pendrive available with them before the trial Court and the trial Court may be directed to receive the same in evidence. He would further submit that the trial Court may be directed to give sufficient opportunity for the petitioner to prove his plea of alibi.

13. The learned Additional Public prosecutor would submit that the respondent Police is also ready to produce the pendrive available with them before the trial Court. He would further submit that since the CD was received from the Saveri Transport Finance Private Limited only at the



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instance of the petitioner, the petitioner alone is duty bound to produce the electronic document along with certificate as contemplated under Section 65(B) of Indian Evidence Act.

14. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side and also taking note of the availability of the pendrives, the petitioner and the respondent Police are hereby directed to produce the pendrive available with them before the trial Court. Since the petitioner has been taking the plea of alibi from very beginning i.e., from the date of his arrest, he is at liberty to produce the evidence in accordance with law. The petitioner is also at liberty to exhibit the pendrive containing the CCTV footage recorded in the Saveri Transport Finance Private Limited subject to the requirements as contemplated under Section 65(B) of the Indian Evidence Act.

15. The learned trial Judge is directed to proceed with the case and dispose of the case as expeditiously as possible preferably within a period of two months from the date of receipt of copy of this order. The petitioner as well as the prosecution are hereby directed to extend their fullest co-operation for completing the trial within the time stipulated by



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this Court.

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16. With the above directions, the Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

**29.03.2023**

NCC : Yes/No  
Index : Yes/No  
Internet : Yes/No  
das

To

- 1.The II Additional Special Court for Trial of NDPS Act cases,  
Madurai.
- 2.The Inspector of Police,  
Keerathurai Police Station, Madurai City.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer, Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.

**K.MURALI SHANKAR,J.**



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