



CNR: KAHC010620072026

NC: 2026:KHC:53456
WP No. 28345 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 28345 OF 2026 (GM-RES)

BETWEEN:

BHAVYA BANGERA
AGED ABOUT 38 YEARS
R/AT NO. 3026, 2ND FLOOR,
3RD HERITAGE, SHOBA VALLEY VIEW APARTMENT,
OPPOSITE TO V LEGACY KALYANA MANTAPA,
HOSKEREHALLI, BANASHANKARI,
BENGALURU - 560 085.

...PETITIONER

(BY SRI. S.B. TOTAD, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY SHO,
HEBBAGODI POLICE STATION,
INVESTIGATED BY CCB (ANW),
REPRESENTED BY SPP,
HIGH COURT BUILDINGS,
AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. SANTHOSH HOSPITAL
HAVING ITS REGISTERED OFFICE AT:
NO. 6/1, PROMENADE ROAD,
BEHIND COLES PARK, PULIKESHI NAGAR,

Digitally
signed by
PADMAVATHI
B K

Location:
High Court of
Karnataka



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FRAZER TOWN,
BENGALURU - 560 005.

...RESPONDENTS

(BY SMT. DEEPTHI ALV, HCGP FOR R1)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA R/W SEC. 528 OF THE BNSS, 2023 PRYING TO 1. QUASH THE CHARGE SHEET ANNEXURE A IN SPL. C NO. 741/2024 PENDING ON THE FILE OF THE LEARNED VIII ADDI. DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL, AT BENGALURU AGAINST THE PETITIONER AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

Heard Sri. S.B. Totad, learned counsel appearing for the petitioner, Smt. Deepthi Alva, learned High Court Government Pleader appearing for respondent No.1 and have perused the material on record.

2. The petitioner is before this Court, seeking the following prayer:

- "I. Quash the Charge Sheet ANNEXURE 'A' in Spl. C no.741/2024 pending on the file of the Learned VII



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Addl. District and Sessions Judge, Bengaluru Rural,
at Bengaluru against the Petitioner.

- II. Further be pleased to pass any such other orders in favour of the Petitioner that this Hon'ble Court deems fit and necessary in the circumstance of the case, in the interest of justice."

3. Learned counsel appearing for the petitioner would submit that the issue in the *lis* stands covered by the judgment rendered by this Court in W.P.No.4819/2025 disposed on 28.11.2025, wherein it has held as follows:

"18. In the case at hand, the test is conducted at Santosh Hospital. The Additional State Public Prosecutor has not produced any material to demonstrate as to why the urine samples were or are always sent to Santosh Hospital, a private laboratory and not to any Government laboratory. Prior to sending the sample for testing what is necessary is, authorisation of the Magistrate. No material is produced that the Magistrate had authorised the testing at a private laboratory. The State has also failed to produce any Government notification or Circular which recognizes Santosh Hospital as a Government recognized/authorised laboratory for any kind of testing. Therefore, the very report that is provided by the 2nd respondent is seeped in suspicion, as one urine sample cannot project 5 broad band drugs or 5 psychotropic substances. 5 narcotic drugs in one urine sample cannot emerge, let alone psychotropic substances.

19. It is in public domain that narcotic drugs are derivatives of natural products. Psychotropic substances are chemical derivatives. The indication in the urine sample is 5 chemical substances and if a person would consume all five, his life would be at risk. It is, therefore, necessary after the conduct of test of urine samples, confirmatory tests become mandatory. The confirmatory tests are as afore-quoted. It is not that there is no consideration by any Court with regard to confirmatory



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tests. The Kerala High Court, in extensor, has considered the tests in the case of **SUO MOTU v. STATE OF KERALA**¹, and held as follows:

"....

6. State Police Chief/Director General of Police, Police Headquarters, Thiruvananthapuram, 3rd respondent, has filed another statement dated 21.11.2019, wherein he has produced a chart showing the number of NDPS Crimes registered during the period 01.01.2016 to 30.09.2019 in each Police Districts in Kerala - gender wise. Said statement is reproduced.

"A. A statement has been filed in this regard on behalf of the State Police Chief on 30.09.2019 narrating the steps taken to obtain the performance analyses of Abon Drug Detection Kit. This Court, after considering the case on 24.10.2019 issued an interim order directing that Director General of Police and State Police Chief, Kerala to furnish a detailed statement of men, women and children involved in such crimes and also the performance analysis report of 'Abon Kits' in the detection of NDPS crimes. In this regard a performance analysis report was obtained from the concerned authorities and the contents of the report are narrated hereunder.

B. The District Police Chief Kochi, City collected ten numbers of ABON Kit from Chief Store, Trivandrum and distributed to Assistant Commissioner of Police, Narcotic Cell, Kochi City, to check the result and performance level and 15 number was distributed to Assistant Commissioner of Police Narcotic Cell, Trivandrum. The Assistant Commissioner of Police, Narcotic Cell, Kochi City examined the Multy 6 oral drug detection device in various persons addicted to different Narcotic substances. The detection proved positive while examining the cases of *MDA, LSD, Hashish Oil, Ganja, Nitrazepam Pills*, etc., when checked, in co-operation with De-addiction Centres. According to ACP Narcotic Cell, 9 drug detection kits tendered positive results.

PROCEDURES:

1). PRELIMINARY ANALYTICAL TEST

1. Screening — Identify the suspected persons having consumed a Narcotic substance from his

¹ 2021 SCC OnLine Ker. 665



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behavior and attitude depending on the influence of substance used.

2. Insert the sponge end of the fluid collector into his mouth for 3 minutes and actively swab to get the sponge saturated with Saliva.
3. Remove the collector from the mouth and insert into the test device and turn the collector clockwise and wait for one minute.
4. Rotate the collection chamber counter clockwise and set the timer for 9 minutes and read the result at 9 minutes.
5. The drug positive oral fluid specimen. will not generate a coloured line in the specific test line region of the strip and the drug negative oral fluid specimen will generate a line in the test line region.

A coloured line will always appear in the Control line region. If the control line does not appear the test result is not valid.

II. SECONDARY ANALYTICAL TEST

Secondary Analytical Test is used to obtain a confirmed result by sending the specimen after sealing with tamper evident tape and sent to FSL examination where Gas Chromatography or Mass Spectrography (GCMS) are preferred.

The result can be tallied with the opinion of a MRO (Medical Review Officer) for confirmation.

ADVANTAGES

1. No such scientific device is available till now to identify a suspected drug user either to prosecute him or save him sending to De-addiction Centres.
2. It is easy to handle and result oriented and can be used everywhere.
3. All types of common drugs/substances can be



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detected using this device.

4. The device can be utilized for investigation of crime and traffic accident cases.
5. The company guarantees for two years.
6. **The rampant use of drugs among students and**

youths attending the DJ parties can be curtailed and controlled by spreading an impression of getting identified easily using this device.

DISADVANTAGES

1. The consumed person detected by the device can't be connected through reliable evidence to prove the ownership.
2. If the suspected consumed person resists the collection of oral fluid from his mouth it becomes difficult to conduct the test.
3. **Positive test result does not indicate the concentration or quantity of the drug in the specimen, but only shows that he has consumed it. But, in Breath Analyzer, the concentration of alcohol in breath can be read through a printer. Hence, there is a chance of claiming the consumption of any NDPS substances on medical grounds.**
4. A negative result may not necessarily indicate a drug-free specimen. Drugs may be present in the specimen below the cut off level.
5. Legal sanctity of the device for effective prosecution.

REQUIREMENTS

- 1) The device must be equipped with collecting the Biometrics or Fingerprint of the suspected person.
- 2) Additional facility providing issue of printed result.



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- 3) As a practice in drunkenness tests, the addict/suspect along with the Detecting Officer in presence of a witness, have to make their signatures in the place with non removable ink.
- 4) Enactment of suitable legislature/amendments in related laws."

In another judgment in the case of **ANURAJ v. STATE OF KERALA**², the High Court of Kerala has held as follows:

"....

8. Pursuant to the above order, the Additional Chief Secretary has filed an affidavit dated 13.10.2023 stating as follows:

"3. It is submitted that based on the order of the Hon'ble High Court dated 25.07.2023 in B.A Nos. 5686, 5549 and 5693/2023, as per the letter No. K2/212/2023- Home dated 14.09.2023, the State Police Chief had been directed to examine the possibility of establishing a lab/converting an existing lab, exclusively for NDPS cases and if necessary, to furnish a detailed and comprehensive proposal by incorporating details of the infrastructure facility, total expenditure for the project, availability of fund etc. In this regard, the State Police Chief has reported that following steps have been taken to ensure the completion of the Chemical Analysis of Narcotic Drugs within the stipulated time.

4. The testing facility of the Narcotic substances is made available in the following Units:

1. State Forensic Science Laboratory, Thiruvananthapuram
2. Regional Forensic Science Laboratory, Kochi.
3. Regional Forensic Science Laboratory, Thrissur.
4. Regional Forensic Science Laboratory, Kannur.

4. The testing facility for the examination of Ganja Samples is present in the newly established 13 District Forensic Science Laboratories (DFSLs). One more DFSL is under

² Bail Application No.5549 of 2023



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the process of establishment at Wayanad. As of now, there is one special unit under the State FSL, which is functioning at the Regional Forensic Science Laboratory at Thrissur. The Narcotic Division of RFSL, Thrissur, has been functioning since 2020 and carries out exclusively the examination of Narcotic Substances, A separate floor has been constructed at RFSL, Thrissur for the purpose.

5. The Testing facility for narcotics substances in the units under the State Forensic Science Laboratories has been enhanced by providing adequate amount in the State Plan Scheme and Central Assistance Schemes for the procurement of necessary instruments/equipment, chemicals glassware and lab ware.

6. To establish the identity of any unknown substance under the NDPS Act, at least two Independent analytical techniques of which one should be instrumental. So, it is mandatory to follow alternative methods like Chromatography and Spectroscopy. Gas chromatography (GC) and High performance Liquid Chromatography (HPLC) offer high sensitivity and specificity for confirmation of presumptive results in screening tests. Gas - Chromatography-Mass Spectrometry (LC-MS) are the most most sensitive and specific methods for confirmation of drug presence in a sample. The Spectroscopic methods are FT-IR with standard library/control and UV-Vis Spectrophotometer with control sample. At present, from among the above mentioned sophisticated and costly instruments Gas Chromatography (GC) and High performance Liquid Chromatography (HPLC), FT-IR with standard library/Control, and UV-Vis Spectrophotometer with control samples are made available to all the units where the examination of the narcotic substances is being carried out except for District Level Laboratories where only the examination of Ganja is being carried out. All the basic requirement concerning instrumentation are made available at FSL and RFSLs."



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(Emphasis supplied)

A learned single judge of this Court, while considering this issue has way back in 2008, in the case of **R.MAYILVAHANAM v. INTELLIGENCE OFFICER**³, has held as follows:

"....

76. P.W. 14 also admits that, on all the sample packets, it is written as "5 gms of sample" whereas, the weight of the samples that were examined by him were 4.7 gms (SI), 5.02 gms (S3) and 4.9 gms (S5). It is also an admission made by P.W. 14 in his evidence that as per the manual, colour test is not a definite test and it is mentioned in the manual that while testing heroin, colour test will be achieved while conducting the tests of other alkaloids and uncontrolled substances. This witness also admits in the cross-examination that he has not conducted the two confirmatory tests viz., gas chromatography and mass spectroscopy.

77. The testimony of P.W. 15 A. Ameer Razakhan, another Assistant Chemical Examiner, is also to the same effect and Ex. P-79 is his report and this witness also admits in the course of his cross-examination that he has not conducted quantitative or qualitative tests and goes on to say that M.Os. 1, 3 and 5 sample packets did not contain N.C.B. seal and the weight of SI packet was 4.6 gms, the weight of S2? packet was 4.9 gms and the weight of S3 packet was 4.7 gms. He admits that he has not mentioned the reasons or grounds for his opinion and also for the delay in conducting the tests. It has been brought out further in the cross-examination of this witness that Method A in respect of screening of samples and Method B is in respect of confirmatory tests and Method A is presumptive test that includes colour test and he has not conducted any test mentioned in Method B, which is confirmatory test.

78. What is clear from the testimony of the above Assistant Chemical Examiners is that they only conducted preliminary test or presumptive

³ 2008 SCC OnLine Kar. 187



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test but did not conduct any confirmatory test so as to formally fix that the sample packets contained contraband heroin and nothing but heroin. This procedure adopted by the Assistant Chemical Examiners and their failure to point out the percentage of purity of the contraband drug and the difference in weight of the samples received by them when compared to the weight mentioned on the sample packets on the top, all give rise to doubt the prosecution case insofar as its effort to establish through the testimony, beyond all reasonable doubt, that the sample packets which were tested by the Assistant Chemical Examiners contained heroin and nothing but heroin. In the absence of purity test being conducted and the percentage of heroin drug being indicated and no confirmatory test or quantitative test also being held, I am of the view that the evidence of the Assistant Chemical Examiners also creates yet another loophole in the prosecution case."

(Emphasis supplied)

The aforesaid judgments were not considering urine samples, but they were considering seized contraband samples. Insofar as urine samples are concerned, the coordinate Bench in the case of **SRI PRANAY NATARAJ** *supra* has elucidated that tests are mandatory.

20. The High Court of Bombay in the case of **SAGAR PARSHURAM JOSHI v. STATE OF MAHARASHTRA**⁴ held that in the absence of the report of the Chemical Analyzer, a bare reference of, field test being conducted, is not "sufficient material" to detain an applicant in jail. In the absence of documented, standards of colour test reagents for preliminary identification of drugs, would lead to doubting the authenticity of the test result. Leaving the entire field test process to the understanding of the field officers of the suspect substance, without any standard documented colour test for reagents is arbitrary. It held as follows:

"18. Before adverting to the arguments of the learned counsel for the applicant, it may be stated that

⁴ 2021 SCC OnLine Bom 3051



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the Director General of the Narcotic Control Bureau has issued a field officer's hand-book for guidance of Drugs Law Enforcement Officers. Chapter VI refers to, 'Drug Detection Kit', the relevant paragraph is as under:

"Drug Detection Kit: These kits assist the DLEO in forming a reasonable belief about a substance being a drug. The kit is a portable case containing different reagents that are used to test a small quantity of the substance recovered and determine the nature of the substance based on the color range resulting from the reactions of the suspect substance with the reagents. There are three types of test kits used at present : Narcotic Drugs Kit to test traditional drugs like Ganja, Charas, Opium Heroin, Cocaine, and the like; Precursor Chemicals Kit to test Acetic Anhydride, Ephedrine, Pseudoephedrine etc. and Ketamine Kit. All these kits are very user friendly and come with an Instruction sheet to guide the user draw appropriate Inference. It is essential that the DLEO conducts the test, matches the resultant color and forms a reasonable belief that the substance gives positive color pattern for a drug. This process must be recorded In the Panchanama."

19. I have perused the hand-book. Chapter VII of the hand-book is about 'Drug Identification and Field Testing'. Chapter I enumerates, check-list, for Drugs Law Enforcement Officers, while executing the field operation, to ensure that the Drugs Law Enforcement Officer does not overlook anything, which might subsequently affect the case. Item No. 10 in the check-list reads as under:

"10. Were all recovered suspect substances field tested with Drug Detection Kits/Precursor Testing Kits and the matching colour results to show presence of ND, PS or CS and was it all documented?"

20. In relation to the identification of drug, it states

"Identification: Natural narcotic drugs like Ganja, Charas, Opium Poppy can be easily identified by their color, texture and smell. But, most of the drugs abused today are refined and processed substances and are mostly circulated as white, off-white or brown powder, crystals or flakes or colorless odorless liquids. It is very difficult to identify a substance as a drug unless it is tested with different reagents."

21. So far as the Drug Detection Kit is concerned, it is stated in the hand-book that these kits assist Drugs



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Law Enforcement Officers in forming reasonable belief about substance being a drug. The kit is a portable case containing different reagents that are used to test a small quantity of substance recovered and to determine the nature of substance based on the colour range resulting from the reactions of the suspect substance with reagents. It is stated that this process must be recorded in the panchanama.

22. Obviously, these tests are only indicative and preliminary tests and need further confirmation for which sample is sent to a laboratory. Instructions in Hand-book also suggest preparation of the test memo in triplicate on the spot and facsimile in print of seal used in sealing the envelopes, to be affixed on test memos.
(emphasis supplied).

23. In the case at hand, admittedly, it is recorded in the panchanama that test was conducted on the field drug kit and the resultant colour pattern, (dark brown) conforms and matched suspect substance i.e. amphetamine, recovered from the person of the applicant. However, it may be stated that natural narcotic drug like Ganja, Charas, Opium Poppy can be easily identified by their colour, texture or smell but most of the drugs abused today are refined and processed substances and are mostly circulated as white, off-white or brown powder, crystals or flakes or colorless, odorless liquids and, therefore, it is very difficult to identify the substance as a 'drug' unless it is tested with different reagents. **A reagent is a substance or compound added to a system to cause chemical reaction. In the case at hand, prosecution has not pointed out with which reagent the suspect substance was tested by the field officers. Hand-book in Chapter VII as an illustration, has just given few visuals with which the officers should familiarize during the drugs law enforcement. Obviously, it means, the Narcotic Control Bureau, Ministry of Home Affairs, Government of India has not prescribed the standards to establish minimum requirements for colour test, and methods of testing reagents to determine nature of substance, based on colour range resulting from reaction with reagent. In the case at hand, it is prosecution's case that white powder (suspect substance) recovered from the**



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person of the applicant and the co-accused when tested with reagents, it produced dark brown colour, which matches colour pattern for the amphetamine. However, there are no documented set standards as to which substance upon testing with reagent/s would produce, which colour. Thus, all and every aspect of field testing is left to the experience, knowledge and perception of Law Enforcement Officer.

24. Be that as it may, the National Institute of Justice, US Department of Justice has set the NIJ standards for colour test reagents/kits for preliminary identification of the drugs of abuse. Table 1 in Chapter IV itemize particulars of final colours produced by the reagents with various drugs and other substances. However, a document of this kind, if any, by Ministry of Home Affairs is not made available by the prosecution to prima-facie ascertain and satisfy authenticity of test result of the field test conducted of the suspect substance. Nor memos of test are forming part of the charge-sheet. Thus, in my view, bare reference of, field test being conducted, on the kit in the panchanama is not "sufficient material" to detain the applicant in the jail, in absence of report from the Chemical Analyser. Besides, there is no such other material to prima-facie accept that 'suspect substance' recovered from the applicant was amphetamine. It may not be overlooked that the Chemical Analyser's report is an essential, integral and inherent part of the investigation under the NDPS Act and would lay foundation of accused's culpability without which Magistrate is not able to form an opinion and take cognizance of the accused involved in the commission of offence under the Act. In the case at hand, prosecution relies on the test conducted on the field and reference of such test being made in the panchanama. Except this, there is neither 'test memos' of such tests on record though, the Ministry of Home Affairs in the hand-book suggested field officers' to prepare the test memo in triplicate (*emphasis supplied*). Additionally, in absence of documented, standards of colour test reagents for preliminary identification of drugs has not been made available to this Court. Therefore, entire field test process of the suspect substance, with reagents and colour produced. whether matches colour pattern of particular drug



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or not is left to the understanding of the field officers which is arbitrary. Thus, prima-facie to accept the authenticity of the preliminary test of the suspect substance recovered from the accused persons, prosecution is expected to place on record some more particulars or atleast test memos, which has not been done in the case at hand. Besides, it may also be stated that though prosecution has collected/drawn samples of the powder from a company where applicant and another co-accused were working neither preliminary report of that sample has been produced on record. Question to be posed, as to why field officer did not conduct the field test of the samples of 'Ramlatan powder' collected from the company where accused were working. Had the prosecution conducted this test and place on record 'test memos', would have certainly assisted this Court in appreciating prosecution case and contention of applicant-accused. Therefore, to say that today before this Court there is no sufficient material to accept, prima-facie. authenticity of the test result of the, suspect substance done on the spot by Field Test Kit.

25. One may argue that reference in the panchanama of the field test being conducted at the spot cannot be overlooked as it is to be presumed in law that field officers drew the panchanama in discharge of their official acts and, therefore, a relevant fact, which can be tested only during the evidence. However, in this case, officers were not precluded from filing the 'test memos' and also could have taken recourse to Section 36-A(4) of the NDPS Act, and file Chemical Analyser's report within extended time."

(Emphasis Supplied)

21. The High Court of Delhi in the case of **AJAY MEENA v. AIRPORT AUTHORITY OF INDIA**⁵ has held that non-negative reports for Amphetamine Urine Test, which is a screening test, must be confirmed by gas chromatography/mass spectrometry. It observes as follows:

⁵ W.P.(C) 17282 of 2022 disposed of on 23-12-2022



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"....

3. The prime ground of challenge in the present writ petition is that the medical report dated 07-11-2022, as per which the test for 'AMPHETAMINE SCREEN URINE' is 'non-negative', itself notes that there are limitations of procedures and the test being limited only to screening, in case of 'non-negative' results, the same be confirmed by gas chromatography/mass spectrometry (GC/MS) and therefore, the Respondents should have put the Petitioner to the required confirmatory tests, before coming to a conclusion that the Petitioner is unfit for appointment.

... ..

7. From the facts of the case it is an undisputed position that Petitioner has successfully cleared all the tests and is high-up in merit. Insofar as the medical test is concerned, the medical report is in favour of the Petitioner, save and expect, the test 'amphetamine screen urine', for which the test is non-negative. It is true that the candidates were informed that if they tested non-negative for any of the psychoactive substances they will stand disqualified for selection, however, it cannot be overlooked that the medical report itself delineates the limitations of the procedure and provides that non-negative results 'must be' confirmed by gas chromatography/mass spectrometry (GC/MS). While it is the case of the petitioner that he has never consumed amphetamine or any other drug, it is the case of the Respondents that the medical report is to the contrary. Considering the fact that the screening test conducted in the first instance may not portray a correct picture and keeping in backdrop the limitation of the procedures as also the fact that the Petitioner has placed on record a medical test report dated 07-12-2022 albeit of a private diagnostic centre, this Court deems it appropriate to refer the Petitioner for a review medical examination."

(Emphasis supplied)



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22. The High Court of Calcutta in the case of **RAKESH JHA v. STATE OF WEST BENGAL**⁶ held that the CFSL / Laboratory Report becomes an essential and integral part of the investigation for establishing the charges under the NDPS Act. The Chemical Examination Report is the most vital piece of evidence which is required to be made part of the charge-sheet. It observes as follows:

"12. The petitioner, before us, on the other hand, has been charged for commission of an offence under the NDPS Act which requires the Trial Court to take cognizance of the offence committed under the Act. **This means that the CFSL/Laboratory Report becomes an essential and integral part of the investigation for establishing the charges under the NDPS Act. The Chemical Examination Report therefore becomes the most vital piece of evidence which is required to be made part of the charge-sheet.**"

(Emphasis Supplied)

In the light of what is noted hereinabove, what would become unmistakably clear is, the necessity of urine samples being tested by a Government laboratory or the tests that are done by a private laboratory, to be put to confirmation, by the aforesaid two tests, both of which, have admittedly not happened in the case at hand. The FSL report was not even a part of the charge sheet, what was part of the charge sheet was the report by Santosh Hospital. Admittedly, the report of Santosh Hospital, even according to its brochure, is only presumptive and not conclusive."

In the light of the order passed by this Court (*supra*) and for the reasons aforementioned, the following:

ORDER

(i) The Writ Petition is ***allowed***.

⁶ 2023 SCC OnLine Cal 2463



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- (ii) The proceedings in Spl.C.No.741/2024 pending before the VIII Additional District and Sessions Judge, Bengaluru Rural District, Bengaluru, stand quashed *qua* the petitioner.

Sd/-
(M.NAGAPRASANNA)
JUDGE

JY
List No.: 1 Sl No.: 7