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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No.386 of 2023

Mr.Bakruthen

S/o.Abdul Khadar,

No.63/28, Kudirathali Makkah Street,

Dr.Natesan Road,

Chennai - 5.

..Appellant/Accused

Vs

State Rep.By

Inspector of Police,

D3, Ice House Police Station,

Chennai.

...Respondent/Complainant

Prayer : Criminal Appeal filed under Section 374(2) of Cr.P.C., to call for the records of Judgment passed in C.C.No.30/2019 dated 21.02.2023 by the learned Principal Special Court under EC and NDPS Act at Chennai and set aside the same.

For Appellant:

Mr.M.Anandaraj

For Respondent:

Mr.S.Raja Kumar

Additional Public Prosecutor



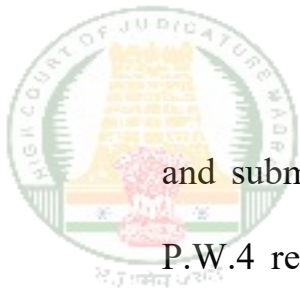
JUDGMENT

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This Criminal Appeal has been filed by the sole accused challenging the conviction and sentence imposed upon him vide Judgment dated 21.02.2023 in C.C.No.30 of 2019, on the file of the learned Principal Special Judge, EC & NDPS Court, Chennai. The accused/appellant was convicted for the offence under Section 8(c) r/w 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the “**NDPS Act**”) and sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.50,000/- (Rupees Fifty Thousand Only) in default, to undergo 6 months of rigorous imprisonment.

2(a). The case of the prosecution is that on the secret information received by P.W.1, Sub-Inspector of Police, on 18.03.2016, that the accused/appellant was in possession of ganja, P.W.1 made entries of the information in the General Dairy, and after obtaining permission from his superior, P.W.1, along with P.W.2, Head Constable, went to the occurrence place and found the accused/appellant in possession of 1.150 Kgs of ganja.

(b) After complying the mandatory provisions, the sample and the remaining contraband were placed in separate covers and sealed. The Seizure Mahazar was marked as Ex.P3. Thereafter, P.W.1 returned to the police station



and submitted a Special Report to P.W.4, Assistant Commissioner of Police. P.W.4 registered the FIR in Crime No.487 of 2026 [Ex.P7], for the offence under Section 8(c) r/w 20(b) of the NDPS Act.

(c) P.W.5, Assistant Commissioner of Police, took up the investigation and filed the Final Report against the appellant for the offence under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai. The trial Court framed charges under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act against the accused and when questioned, the accused pleaded 'not guilty.'

(d) To prove its case, the prosecution examined 5 witnesses as P.W.1 to P.W.5 and marked 8 documents as Exs. P1 to P8. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. On the side of defence, no oral or documentary evidence was let in.

(e) On appreciation of oral and documentary evidence, the trial Court found that the prosecution had established its case beyond reasonable doubt and held the appellant/accused guilty of offences under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act and sentenced him as stated in the first paragraph of this



Judgment. Aggrieved by the said conviction and sentence, the accused had preferred the instant appeal.

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3. Heard, Mr.M.Anandaraj, learned counsel appearing for the appellant/accused, and Mr.S.Raja Kumar, learned Additional Public Prosecutor, appearing for the respondent/State.

4. The learned counsel for the appellant/accused would submit that the case has been foisted against the appellant; that there are several inconsistencies in the date on which the information was received; and that none of the witnesses have explained the reason for the said discrepancies, and therefore, the impugned Judgment is liable to be set aside.

5. The learned Additional Public Prosecutor, for the respondent/ State would submit that the discrepancies in the dates are typographical; that the documents and the other circumstances would reveal that the seizure was made on 18.03.2016; and that the impugned Judgment is justified and prayed for dismissal of the appeal.



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6. As stated above, the prosecution had examined five witnesses. P.W.1 is the Sub-Inspector of Police, who received the information and recorded it in [Ex.P1]. P.W.2 is the Head Constable who accompanied P.W.1 to the place of occurrence. P.W.3 is the Forensic Science Expert, and his report is marked as Ex.P6. P.W.4 is the Assistant Commissioner of Police, who registered the FIR [Ex.P7]. P.W.5 is the Assistant Commissioner of Police, who filed the Final Report after concluding the investigation.

7. It is seen from Ex. P4, which is the Special Report under Section 57 of the NDPS Act, that P.W.1 had stated that information was received on 17.03.2016, at about 5.30 a.m. Even in the FIR, it is stated that the information was received on 17.03.2016 at about 5.30 a.m. However, it is seen that the seizure was made on 18.03.2016, at about 7.00 am., and thereafter the appellant was arrested. P.W.4, Assistant Commissioner of Police, in his cross-examination had admitted that in the Special Report under Section 57 of the NDPS Act, there is a reference that the date of receipt of information was 17.03.2016. However, in [Ex.P1], the date of receipt of the information is shown as 18.03.2016. None of the witnesses strangely had stated that the date mentioned in the Special Report under Section 57 of the NDPS Act [Ex.P4] and in the FIR [Ex.P7] as 17.03.2016 is a typographical error. No independent



witnesses were examined by the prosecution to prove the seizure. The relevant admission made by PW3 in her cross-examination reads as follows:

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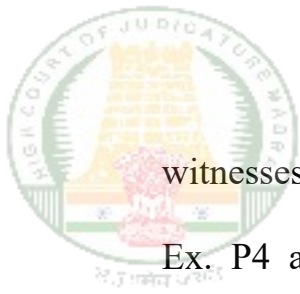
“,e;j kfrhpy; cs;s rhl;rpfs;jhd; Vw;fdnt elj;jpa tHf;fpy;
C.C.No.29/2019 rhl;rpfs; vd;why; vdf;F "hgfkpy;iy/ Kjy; jfty; mwpf;ifapy;
17/03/2016 vd;W jhd; jfty; fpilj;Js;sjhf tptuk; fz;Ls;sJ vd;why; rhp/”

8. It is the case of the defence that the case has been foisted against the appellant after the appellant was released on bail in another case for possession of an intermediate quantity of ganja in C.C.No.29 of 2019 and that the alleged occurrence could not have taken place since the appellant was signing before the respondent pursuant to the conditions imposed while granting bail.

9. Though PW1 had admitted that the earlier occurrence took place three months before the present occurrence. However, he would deny the knowledge of the appearance of the appellant before the police station every day pursuant to the bail conditions. The relevant portion of PW1's cross-examination is as follows:

“rprp 29-19 rk;ge;jg;gl;l rk;gtj;jpw;F gpwF vt;tst[ehs;
fHpj;J ,t;tHf;F rk;gtk; vd;why; Rkhu; 3 khj';fs; ,Uf;fyhk;/ Kjy; tHf;fpy;
\$hkPdpy; btspna te;jgpwF M\$u; vjphp v';fs; fh/ep/jpy; epge;jid
ifbahg;gk; nghl;L te;jhuh vd;why; mJ gw;wp vdf;F bjhpahJ/”

10. In the light of the discrepancy in the dates, which is admitted by the



witnesses and not explained, this Court cannot infer that the date mentioned in Ex. P4 and Ex.P7 is a typographical error. The prosecution ought to have explained the discrepancies. It cannot be inferred that it is a typographical error.

Therefore, considering all the above infirmities, this Court is of the view that the appellant had rebutted the presumption and had probalised his defence that the seizure cannot be believed and the documents were prepared at the police station. In view of the same, this Court is inclined to set aside the impugned Judgment.

11. Accordingly, the Criminal Appeal stands allowed. The conviction and sentence imposed upon the appellant/accused vide Judgment dated 21.02.2023, on the file of the learned Principal Special Judge, EC & NDPS Court, Chennai in C.C.No.30 of 2019, are set aside. The appellant is acquitted of all the charges. The fine amount, if any, paid by the appellant shall be refunded. The bail bond, if any, executed shall stand discharged.

05-02-2026

Speaking/Non-speaking order
Neutral Citation: Yes/No
dk/ars



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SUNDER MOHAN, J.

dk/ars

Copy to

1. The Principal Special Judge,
EC & NDPS Court, Chennai.
2. The Inspector of Police,
D3, Ice House Police Station, Chennai.
3. The Public Prosecutor
High Court of Madras, Chennai.

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