

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.569 of 2011
and
M.P.No.1 of 2011

S.H.Abdul Careem

...Appellant/Accused

vs.

Central Rep. By
The Intelligence Officer
Narcotics Control Bureau
South Zonal Unit
Chennai
(F.No.48/1/10/2005-NCB-MDS)

...Respondent

Criminal Appeal filed under Section 374 of Cr.P.C., against the judgment dated 11.07.2011 made in C.C.No. 211/2005 passed by Special Judge-1st Additional Special Court under NDPS Act, Chennai.

For appellant : Mr.R.C.Paul Kanagaraj for
Mr.M.Kamalanathan

For respondent : Mr.N.P.Kumar,
Spl.Public Prosecutor
for NCB Cases.

JUDGMENT

This Criminal Appeal has been directed against the convictions and sentences passed in C.C.No.211/2005 by the Special Judge, I Additional Special Court under NDPS Act, Chennai.

2. The case of the prosecution is that on 22.5.2005, the present accused and another are illegally found in possession of 3.080 kgs of Heroin. Under the said circumstances, the present accused has been

charged under Section 8(c) read with 29, 21(c) and 28 of NDPS Act, 1985.

3. The trial court, after considering the available evidence on record, has found the appellant/accused guilty under Section 8(c) read with 21(c), 29 and 28 of the said Act and sentenced him to undergo 10 years rigorous imprisonment and also imposed a fine of Rs.1,00,000/- for each section. Against the convictions and sentences passed by the trial court, the present criminal appeal has been preferred at the instance of the accused as appellant.

4. The learned counsel appearing for the appellant/accused has not touched the findings given by the trial court with regard to convictions and sentences as passed under Sections 8(c) read with 21(c), 29 and 28 of N.D.P.S.Act, 1985. The only grievance expressed on the side of the appellant/accused is that for each section, the trial court has imposed a fine of Rs.1,00,000/- and default sentence of 6 months and the same may be reduced.

5. Considering the fact that the trial court has imposed a substantive sentence of 10 years for each section, this court is of the view that some leniency can be shown in awarding default sentence and to that extent, this criminal appeal is liable to be allowed.

In fine, this Criminal Appeal is allowed in part. The convictions and sentences passed by the trial court in C.C.No.211 of 2005 by the trial court are confirmed. However, the quantum of default sentence imposed by the trial court under each section is modified as follows:-

"The appellant/accused is sentenced to undergo 2 months rigorous imprisonment as default sentence under each sections instead of 6 months."

Consequently, connected M.P.No.1 of 2011 is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

nvsri

To

- 1.The Special Judge
-1st Additional Special Court under NDPS Act,
Chennai
 2. The Intelligence Officer
Narcotics Control Bureau
South Zonal Unit
Chennai
(F.No.48/1/10/2005-NCB-MDS)
 3. The Superintendent,
Central Prison,
Puzhal, Chennai - 66.
 4. The Section Officer,
Criminal Section,
High Court,
Madras - 104.
 5. Mr.N.P.Kumar,
Special Public Prosecutor, (NCB Cases)
High Court,
Madras - 104.
- 1 CC to Mr.M.Kamalanathan, Advocate SR.No. 53184

MSM (CO)
PSI (08.10.2015)

Crl.A.No.569 of 2011

सत्यमेव जयते

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