

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25-09-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Appeal No.120 of 2015
and
M.P.No.1 of 2015

1. N. Ramesh (A1)
2. Ashok (A2) ...Appellants/Accused 1 & 2

Vs.

State by
Intelligence Officer
Narcotics Control Bureau
South Zonal Unit
Chennai
(NCB F.No.48/1/11/2005-NCB/MDS)

...Respondent/Complainant

Criminal Appeal under Section 374(2) of Cr.P.C., against the judgment of the Special Judge, I Additional Special Court under NDPS Act, Chennai dated 13-03-2013 made in C.C.No.216 of 2005 convicting the first appellant sentenced to undergo rigorous imprisonment for a period of ten years for each offence and fine of Rs.1 lakh for each offence and in default to undergo rigorous imprisonment for six months for each offence (total fine imposed on the first appellant is Rs.2 lakhs) u/s. 8 (c) r/w. 21(c) and 29 of the NDPS Act and the second appellant sentenced to undergo rigorous imprisonment for a period of 10 years and fine of Rs.1lakh and in default to undergo rigorous imprisonment for six months (total fine imposed on the second appellant is Rs.1 lakh) u/s. 8 (c) r/w. 29 of the NDPS Act and the substantial sentence of imprisonment imposed on the appellants shall run concurrently and the period already undergone by the appellants shall be set off u/s.428 Cr.P.C.

For appellant : Mr. M.S. Charles

For respondent : Mr. N.P.Kumar, Spl.P.P

JUDGMENT

This appeal has been directed against the convictions and sentences dated 13th day of March 2013 passed in C.C.No.216 of 2005 by the I Additional Special Court for NDPS cases, Chennai.

2. The case of the prosecution is that on 01-06-2005, accused Nos.1 and 2 are found in possession of 2.9 kgs of heroin and ultimately, a case has been registered and the same has been investigated and subsequently, final report has been filed and the same has been taken on file in C.C.No.216 of 2005 on the file of the Trial Court.

3. The Trial Court after considering the available evidence on record has found the first accused guilty under Section 21(c) of the NDPS Act and sentenced him to undergo ten years' RI and also imposed a fine of Rs.11lakh and in default of payment of fine, six months' RI. Likewise, the second accused has also been found guilty under Section 29 of the said Act and sentenced to undergo 10 years' RI and also imposed a fine of Rs.1 lakh with default sentence of six months. Against the convictions and sentences passed by the Trial Court, the present criminal appeal has been preferred at the instance of the accused, as appellants.

4. The learned counsel appearing for the appellants/accused has not touched the merits and demerits of the judgment passed by the Trial Court and his only request is that the Trial Court has awarded six months' default sentence for each section and the same may be reduced since both the accused have already exhausted substantive sentence imposed by the Trial Court.

5. The learned Special Public Prosecutor has fairly conceded to the effect that both the accused have already exhausted substantive sentence imposed against them under each Section.

6. Considering the fact that both accused have already exhausted substantive sentence imposed against them under each Section, this Court is of the view to take lenient view in reducing default sentence. Under the said circumstances, the present criminal appeal is liable to be allowed, in part.

In fine, the present criminal appeal is allowed, in part. The convictions and sentences passed by the Trial Court are confirmed. However, the quantum of default sentence for each accused is reduced as follows:

The quantum of default sentence is reduced to two months' instead of six months for each Section.

The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

glp

To

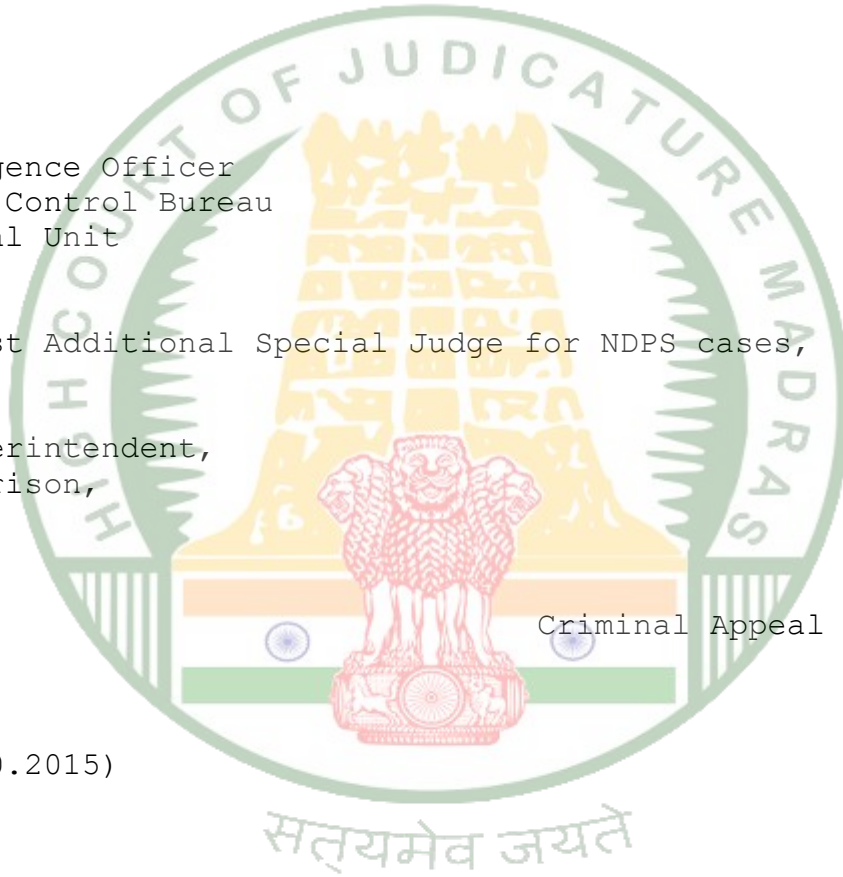
1.Intelligence Officer
Narcotics Control Bureau
South Zonal Unit
Chennai

2.The First Additional Special Judge for NDPS cases,
Chennai.

3.The Superintendent,
Central Prison,
Puzhal,
Chennai.

Criminal Appeal No.120 of 2015

TEJ (CO)
PSI (06.10.2015)



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