

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2623 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.) being aggrieved by the order, dated 28.09.2015, passed in CrI.M.P.No.1462 of 2013 in N.D.P.S.S.C.No.172 of 2009 on the file of the Metropolitan Sessions Judge, Hyderabad.

Heard and perused the material available on record.

Learned counsel for the petitioner submits that the petition filed by the petitioner seeking to frame the charge for the offence under Section 22(a) of the NDPS Act, and not the offence under Section 22(c) of the NDPS Act, as the quantitative analysis of the substance seized from the petitioner could not be carried on, is erroneously dismissed by the Court below. He further submits that in the absence of any certificate of quantification test, the offence should be under Section 22(a) of the NDPS Act.

This Court is of the view that the petitioner can raise the above contention before the Court below at the time of trial since the Court can alter the charge at any time after examination of the witnesses also. Hence, the Court below is directed to take into consideration the objections raised by the counsel for the petitioner in the light of the decisions of the apex Court and also different High Courts, with regard to the quantification test of the contraband concerned.

The Criminal Revision Case is accordingly disposed of. Consequently, the miscellaneous petitions filed in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

05.11.2015

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