

IN THE HIGH COURT OF JUDICATURE AT MADRASDATED : **05.04.2018**

CORAM

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN**Crl.A.No.142 of 2012**

Selvi

.. Appellant / Accused

Vs.

Inspector of Police
NIB CID,
Chennai.

... Respondent / Complainant

Prayer:- Criminal Appeal filed under Section 374(2) Cr.P.C., to set aside the conviction and sentence passed by the I Additional Special Judge for NDPS Act, Chennai, dated 17.02.2012 in C.C.No.83 of 2006 in Cr.No.103 of 2005 for offence under Section 8 (c) r/w 21 (a) of NDPS Act and acquit the accused.

For Appellant : Mr.T.S.Sasikumar

For Respondent : Ms.M.Prabavathi Ganesh Ram
Additional Public Prosecutor**JUDGMENT**

This Criminal Appeal is directed against the Judgment of the I Additional Special Judge for NDPS Act, Chennai, dated 17.02.2012 in C.C.No.83 of 2006, convicting and sentencing the accused to undergo 4 months RI for the offence under Section 8 (c) r/w 21 (a) of the NDPS Act.

2. The appellant / accused has been charge sheeted by the

Inspector, NIB CID alleging that the accused had been in possession

of 10 gms of heroin, Narcotic drug at 12.30 p.m on 30.09.2005 under the Railway bridge in Besant Road-Triplicane and thereby he committed offence under Section 8 (c) r/w 21 (b) of NDPS Act.

3. The prosecution examined six witnesses and marked 11 Exhibits and M.O.1. The trial Court after analysing the evidence and following the procedure as laid down by the Code of Criminal Procedure, convicted the accused for the offence under Section 8 (c) r/w 21 (a) of NDPS Act considering the quantity recovered from the accused as small quantity as the same was not sent for purity test so as to attract offence under Section 8 (c) r/w 21 (b) to establish it as in-between quantity.

4. The learned counsel appearing for the appellant though raised many grounds in the grounds of appeal, confined his argument with respect to sentence alone.

5. The trial Court after analysing the evidence has rightly found the accused guilty for the offence under Section 8 (c) r/w 21 (a) of NDPS Act.

6. The sentence prescribed under Section 21 (a) of the Act is RI for a term which may extend to six months or with fine, which

may extend to Rs.10,000/- as on the date of Judgment of the trial Court.

7. It is fairly conceded by the learned Additional Public Prosecutor that there is no bad antecedence as against the appellant / accused.

8. In this case the appellant / accused has been in custody from 30.09.2005 to 25.10.2005 and then from 17.02.2012 to 01.03.2012. Thus totally he has been in custody for 40 days. Considering the year of occurrence, the period already undergone, quantity of contraband recovered from the appellant is only a small quantity, this Court is of the view that awarding sentence for period already undergone will serve the ends of justice.

9. In the result, this Criminal Appeal is partly allowed by confirming the conviction and modifying the sentence alone as follows :

"The appellant / accused is convicted for the offence under Section 8 (c) r/w 21 (a) of NDPS Act and sentenced to undergo RI for 40 days, i.e., the period which has already been undergone by the appellant."

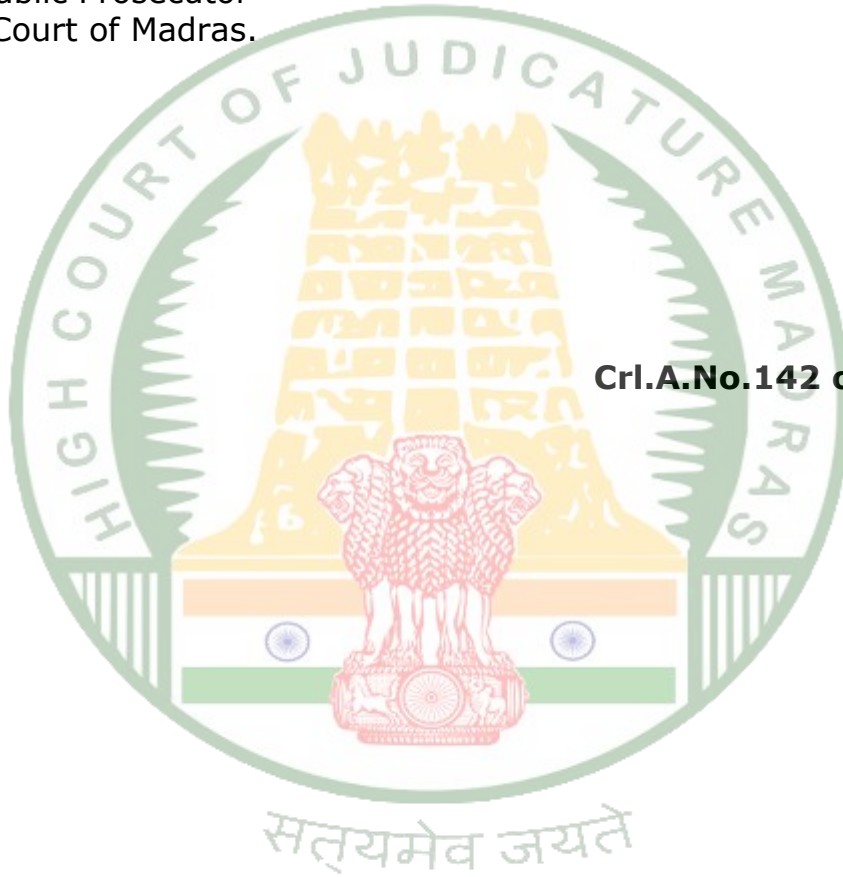
05.04.2018

P.KALAIYARASAN, J

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To

1. The I Additional Special Judge for NDPS Act
Chennai.
2. The Public Prosecutor
High Court of Madras.



Crl.A.No.142 of 2012

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