



Crl.O.P.No.32303 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.32303 of 2019
and
Crl.M.P.Nos.17762 and 17763 of 2019

Manan Yadav

... Petitioner

-Vs.-

- 1.State rep by
The Assistant Superintendent of Police (Trainee),
H2, Guduvanchery Police Station,
Kanchipuram District.
- 2.The Inspector of Police,
H2, Guruvanchery Police Station,
Kanchipuram District.
(Crime No.169/2019)

.. Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records relating to C.C.No.147 of 2019 on the file of the Principal Sessions Court under EC & I Additional NDPS Court, Chennai, and quash the same.



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For Petitioner :Mr.V.Vivekanandan
For Respondent :Mr.N.S.Suganthan
Government Advocate (Criminal side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to C.C.No.147 of 2019 on the file of the Principal Sessions Court under EC & I Additional NDPS Court, Chennai, and quash the same.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) for the respondents.

3. The petitioner has filed this petition to quash the case in Crime No.147 of 2019 on the file of the Special Court for NDPS cases, Chennai. The final report indicates that the petitioner's native place is Rajasthan and he is temporarily residing at Guduvanchery, Estancia Apartment, along with others, who were found to be in possession of 1100 grams of Ganja in their apartment. Based on the specific information, the place was raided and the contraband was seized.



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4. In this quash petition, it is contended that the petitioner is a student of SRM College staying in an apartment. On 13.03.2019, at about 19.43 hours, 30 members of the police team entered into the Estancia apartment and raided the flats and took nearly 36 students into custody. This has been recorded in the CCTV camera kept in the apartment. Thereafter, the police had released 33 students, only 3 students were retained and this petitioner is one among them.

5. It is further contended that the police has fabricated the documents as if the raid of the place was conducted on 14.03.2019 at about 10.00 a.m. and 1100 grams of Ganja has been recovered. Being an enclosed residential premises, any raid after sunset and before sunrise should be done in accordance with the provisions of Section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [hereinafter "NDPS Act"] whereas, the said raid, which is conducted during the night time without following the mandatory provisions of NDPS Act, is liable to be quashed.



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6. The learned counsel for the petitioner would submit that the CCTV videographs and the cell phone tower records would clearly show that the raid was conducted on 13.03.2019 from 19.43 hours onwards and on 14.03.2019 between 10.30 A.M. to 12.30 P.M. At the time which police claim to have raided the premises, this petitioner was not at all within the visibility of the Thailavaram bus stop as contended by the prosecution.

7. Per contra, the learned Government Advocate (Criminal side) submits that based on the specific information received on 14.03.2019, at about 10.00 a.m., the petitioner herein was apprehended near the Thailavaram Bus stand along with two others. After explaining the rights under Section 50 of the NDPS Act, the petitioner was arrested in the presence of witnesses. The contract theory, pleaded by the petitioner herein, has to be established in the process of trial and matter has not to be decided summarily under Section 482 of Cr.P.C.

8. This Court on perusal of the documents filed along with the final report finds that sufficient material *prima facie* to prove that based on



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the specific information recorded under Section 42(2) of the NDPS Act, the police team has proceeded to Thailavaram Bus stop and after explaining the accused persons regarding the rights under Section 50 of the NDPS Act, the personal search had been conducted and 1100 grams of Ganja has been seized in the presence of witnesses Janagaraj, Head Constable and Baskaran, Head Constable. The contrary theory projected by the petitioner is the matter for trial and not a case for quash.

9. In view of the above, this Criminal Original Petition is dismissed. The trial Court is directed to expedite the trial and complete the same preferably within a period of four months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petitions are also closed.

11.10.2022

Speaking/Non-speaking order
Index: Yes/No
Internet : Yes/No
nsa



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To

- 1.The Principal Sessions Court
under EC & I Additional NDPS Court,
Chennai.
- 2.The Assistant Superintendent of Police (Trainee),
H2, Guduvanchery Police Station,
Kanchipuram District.
- 3.The Inspector of Police,
H2, Guruvanchery Police Station,
Kanchipuram District.
(Crime No.169/2019)
- 4.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

nsa

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