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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04/11/2022

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)No.732 of 2022

Vanaraja : Petitioner/A2

Vs.

The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.

(In Crime No.134 of 20190 : Respondent/Complainant

Prayer:- This Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records of the impugned judgment, dated 17/09/2019 passed by the Judicial Magistrate No.1, Usilampatti, in CC No.377 of 2019 and set aside the same.

For Petitioner : Mr.J.Selvam

For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

**ORDER**

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This revision has been filed seeking to set aside the order, dated 17/09/2019 passed in the petition in STC No.377 of 2019 by the Judicial Magistrate No.1, Usilampatti.

2.The revision petitioner was charged for the offence under section 8(c) r/w 20(b)(ii)(A) of NDPS Act stating that he along with the other accused person was found in possession of the contraband, measuring 250 grams of ganja, on 27/08/2019 at about 07.00 hours, when the police party conducted search at Poliyampatti Piruvu. On the basis of the above said occurrence, a case in Crime No.134 of 2019 was registered and after completing the formalities of investigation, final report was also filed and it was taken cognizance in STC No.377 of 2019 by the Judicial Magistrate No.1, Usilampatti. After supplying copies, the petitioner was questioned about the accusation. He admitted the guilt and accordingly, he was convicted and sentenced to pay a fine of Rs.1,000/-, in default 1 week simple imprisonment for the offence under section 8(C) r/w 20(b)(ii)(A) of NDPS Act.



3.Challenging the above said order, this criminal revision is filed.

4.Heard both sides.

5.Now the grievance of the petitioner is that no opportunity was given to him to think over about the admission of guilt or otherwise. He relied upon various judgments namely in the case of **(1) Sundaram Vs. State represented by Sub Inspector of Police, Adambakkam, Madras-88 [1998(1) CTC 686]; (2) Ramasamy Vs. The State [2001-CRL.L.J.2391] and (3) S.Sundararaj and another Vs. State [2012(3)MWN (Cr.) 149]** for the purpose of argument that sufficient opportunity must be given to the accused to think over, if even it is a summons case. This uniform procedure has been followed by various courts.

6.Now the entire records have been called for from the concerned court. Perusal of the records shows that the case was taken on file, on 17/09/2019 as STC No.377 of 2019 and the petitioner appeared the court, on the same day itself. Copies were furnished and he was questioned with regard to the offence.



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7.The docket order shows that it is admitted by the accused persons, accordingly, they were convicted and sentenced to pay a fine of Rs.1,000/- each i/e. SI for 1 weeks under section 8(C), (20(b)(ii)(A) of NDPS Act. But the manner in which, the above said case has been disposed of is not satisfying the law that is set out by the above said judgment. The copy of the judgment is not produced by the trial court. Only docket order has been produced.

8.So considering the above said illegality that has been committed by the trial court, the order of conviction and sentence passed by the trial court are set aside and the matter is remitted back to the trial court to proceed in accordance with law from the stage of furnishing of copies.

9.This criminal revision stands allowed as indicated above.

04/11/2022

Index:Yes/No
Internet:Yes/No
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To,

The Judicial Magistrate No.1,
Usilampatti.



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G . ILANGO VAN , J

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