

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2022

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.875 of 2022
and Crl.M.P.(MD).No.10910 of 2022

Jeyapaul

... Petitioner/Accused No.4

Vs.

State rep. by its
Inspector of Police,
Mathichiyam Police Station,
Mathichiyam, Madurai City.

.. Respondent/Respondent

PRAYER: This Civil Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records relation to the order, dated 06.07.2022, passed by the learned Additional District Judge/Presiding Officer, the 1st Additional Special Court for EC and NDPS Act Cases, Madurai, in Cr.M.P.No.642 of 2022 in C.C.No.556 of 2021 and set aside the same and allow the above Criminal Revision Petition as prayed for.

For Petitioner : Mr.A.Jeyaram

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the order passed in Cr.M.P.No.642 of 2022 in C.C.No.556 of 2021 on the file of the 1st

Additional Special Court for EC and NDPS Act Cases, Madurai, dated 06.07.2022.

2.This petitioner/A4 has filed the petition before the trial Court under Section 2(a) of the NDPS Act and under Section 45 of the Evidence Act praying the Court to weigh the entire case property and send the samples from the case property to the Chemical analysis for re-testing. The same was dismissed by the trial Court observing that as per the Judgment of the Honourable Supreme Court in the case of *Thana Singh Vs. Central Bureau of Narcotics*, reported in **2013 Crl.L.J. 1262**, any requests as to re-resting/re-sampling shall be made within 15 days from the date of receipt of the report. However, only in exceptional circumstances, such type of applications can be entertained.

3.According to the learned Additional Public Prosecutor the application before the trial Court was not properly filed. Even as per the order of the trial Court in para No.6, the sample was taken on 21.06.2021 and sent for analysis on 08.09.2021 and the analysis report dated 15.09.2021 was received by the Court on 08.10.2021 and the report concludes that the samples are Ganja. This petition for re-resting has been

filed only on 09.06.2022. So admittedly, within 15 days, the above said request has not been sent. Since the petitioner was sent to the prison, unless a strong case is made out by the petitioner for re-testing that cannot be entertainable.

4. According to the petitioner, absolutely the sample that was taken from the petitioner is not Kanja, it is only cow-dung powder and that was not sent for analysis. It is purely a put up case. Since it is a dispute between father and son, based on the complaint given by the father, the petitioner was taken to police station.

5. Whether it is a false case or not, it is a matter for consideration during the trial. Unless a strong case has been made out by the petitioner, application for re-testing cannot be entertained. At the time of framing the charge, this petition came to be filed by the petitioner. Therefore, I find no illegality in the order passed by the trial Court. The trial Court has rightly rejected the request of the petitioner. This Court is not inclined to interfere with the order passed by the trial Court under Section 397 Cr.P.C. This Criminal Revision Case deserves to be dismissed.

5.Accordingly, this Criminal Revision Case is dismissed.
Consequently, connected miscellaneous petition is closed.

13.09.2022

Index : Yes / No
Internet : Yes / No
TM

To

- 1.The I Additional Special District Judge, 1st Additional Special Court for
EC and NDPS Act Cases, Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.R.C.(MD).No.875 of 2022

G.ILANGOVAN,J.

TM

Crl.R.C.(MD).No.875 of 2022

13.09.2022