



CRL.A(MD).No. 816 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.07.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).No. 816 of 2022

and

CrI.MP(MD)No.6417 of 2023

Jeyaraman : Appellant/Sole Accused

Vs.

State rep by
The Inspector of Police,
NIBCID, Madurai,
in Crime No.204 of 2015. : Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374 (2) of Cr.P.C, to call for the records in C.C.No.93 of 2016 relating to the judgment dated 17.10.2022 passed by the Additional District Judge/Principal Special Court for EC & NDPS Act Cases, Madurai, and to set aside the judgment of the conviction on the appellant/accused.

For Appellant : Mr.S.Muniyandi
For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor



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JUDGMENT

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This Criminal Appeal has been filed to set aside the passed by the Additional District Judge/Principal Special Court for EC & NDPS Act Cases, Madurai, in C.C.No.93 of 2016 dated 17.10.2022.

2.The case of the prosecution is that on receipt of secret information on 26.10.2015 at about 16.30 a.m., the Special Sub-Inspector of Police obtained permission from the Higher Officials and went to the Thiruparangundram, Park Bus Stop, Madurai, along with the informant and a team and found the accused was in possession of 3.400 Kgs of Ganja. The said Ganja was recovered from the accused. After taking samples, the appellant was brought to the police station and registered the First Information Report in Crime No. 204 of 2015 against him for the offence punishable under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act. Thereafter, he was produced before the Court along with the contraband and he was remanded to judicial custody. After completion of investigation, the respondent police filed a final report and the same has been taken cognizance in C.C.No.93 of 2016, on the file of the learned Additional District Judge/Principal Special Court for EC & NDPA Act Cases, Madurai.



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3.The learned trial Judge after appearance of the accused served the copies under Section 207 Cr.P.C. Then, he framed necessary charges and questioned the accused. The accused denied the charges and plead not guilty and stood for trial.

4.To prove the case, the prosecution adduced P.W.1 to P.W.4 and exhibited 10 documents as Ex.P.1 to Ex.P.10 and marked 3 material objects as M.O.1 and M.O.3. Thereafter, the accused was questioning under Section 313 Cr.P.C proceedings for disclosing the incriminative evidence against him and he denied the same as false and thereafter, the case was posted for defence evidence. On the side of the accused, no one was examined and no documents were exhibited.

5.On perusal of the oral and documentary evidence, the trial Court found that the appellant guilty for the offence under Sections 8(c) r/w 20(b) (ii)(B) of NDPS Act and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.10,000/- each, in default to undergo one month Simple Imprisonment. Aggrieved by the same, the present appeal has been filed.



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6.The learned counsel for the appellant would submit that the Special Sub Inspector of Police, NIBCID, Madurai, has not followed the mandatory procedure as contemplated under NDPS Act and also there is a number of contradiction between the evidence of P.W.2, P.W.3 and P.W.4. He would further submit that the accused is already undergone the sentence for a period of 9 months 23 days and therefore, he prayed for acquittal of the appellant.

7.Per contra, the learned Additional Public Prosecutor would submit that the prosecution categorically proved its case beyond any doubt and the Court below rightly convicted the appellant under Sections 8(c) r/w 20(b)(ii) (B) of NDPS Act and therefore, it does not require any interference.

8. It is seen that the prosecution clearly established the case of recovery of contraband on the basis of the evidence of P.W.2 and P.W.3. There is no ground to interfere the findings given by the learned Magistrate regarding conviction.

8.1. P.W.2 deposed that on 26.04.2015, at 02.00 p.m, he received the secrete information regarding the from the informant relating to the trafficking of contraband. So, he registered the said information and



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transmitted the same to the Higher Officials and obtained permission and went to the occurrence place namely, near the Thiruparankundram Park Bus Stop at 16.15 hours. On identification of the Informant, the P.W.2 and his team intercepted the appellant and complying the procedure stated under the 42 of the NDPS Act, by obtaining the consent letter from appellant under exhibit Ex.P.4 and made a search and found that he carrying the 3.400 kg Ganja in the plastic bag and recovered the same under the Ex.P.5. Thereafter, he taken the sample and arrested the accused and registered the case. The said evidence of the P.W.2 is corroborated by P.W.3. Further, their evidence are co-gent and trustworthy. This Court finds no circumstances to disbelieve their evidence and hence, this Court has no reason to interfere in the finding of the learned trial Judge and convicting the accused under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

9. However, considering the age of the appellant and also considering the incarceration period of 9 months 23 days, this Court is inclined to reduce the sentence alone for the offence under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.



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10. In view of the above, though the conviction passed by the trial Court for the offence under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act, is hereby confirmed, sentence of 1 year Rigorous Imprisonment for the offence under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act is reduced to the period, which was already undergone by the appellant.

11. With the above modification, the Criminal Appeal is partly allowed. Consequently, the connected miscellaneous petition is closed.

12.07.2023

NCC : Yes/No
Index : Yes : No
Internet : Yes : No
dss

Note : Issue order copy on 31.07.2023



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To

- 1.The Additional District Judge/Principal Special Court for EC & NDPS Act Cases, Madurai.
- 2.The Inspector of Police,
NIBCID, Madurai,
- 3.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

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