



WEB COPY



CrI.O.P.No.15672 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.15672 of 2024

Shri Vidhya

... Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Lawspet,
Puducherry.
Crime No.44 of 2024

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records and quash the F.I.R., in Crime No.44 of 2024 on the file of the respondent police.

For Petitioner : Mr.A.N.Rajan

For Respondent : Mr.M.V.Ramachandramurthy
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the F.I.R., in Crime No.44 of 2024 on the file of the respondent police for the alleged offence under Sections 20(b)(ii)A, 8(c) of NDPS Act, 1985 and Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015.



CrI.O.P.No.15672 of 2024

WEB COPY 2. The petitioner herein is the 2nd accused in the said case.

According to her the case has been foisted at the behest of the sister with the property dispute with her and several dispute is pending in respect of property, which is presently shown as the place of recovery of 130 grams of Ganja.

3. The learned counsel appearing for the petitioner submits that the alleged seizure is in a enclosed place between sunset and sunrise and therefore, the mandatory provision contemplated under Section 42(1) of NDPS Act, ought to have been followed. Whereas, in this case there is gross violation of Section 42(1) of NDPS Act, and therefore, FIR is liable to be quashed. Further, referring to the bail order granted by the Principal Sessions Judge, Puducherry wherein the Sessions Judge been prima facie satisfied that the offence under Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015, is not attracted on the material placed by the prosecution. He further contended that the falsity in this case seen from the record. Hence the complaint being a malicious prosecution, same has to be quashed by following the dictum laid down by the Hon'ble Supreme Court in *M/s.Neeharika Infrastructure Private Limited* case,.



CrI.O.P.No.15672 of 2024

WEB COPY 4.

Affidavit been filed by the respondent as a counter wherein, it is stated that on receipt of credible information, the premises bearing No.09. 6th Cross, Kumaran Nagar, Lawspet, Puducherry was searched and before proceeding to the scene of crime, intimation to the immediate higher officer been sent and a Gazetted officer was arranged to be present in the course of search. The evidence and seizure was done in the presence of two independent witnesses by name Veeramuthu and Karthikeyan whom are the respective residents of Lawspet. This petitioner along with A1 was present in the premises and tried to flee, when the search team entered in the premises. The seizure was completed by 21.00 hours leading to arrest of A1-Manikandan @ Rajesh and A2-Shri Vidhya, the petitioner herein after informing the grounds of arrest they were taken into custody.

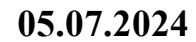
5. It is contended that since the Ganja weighing 130 grams, four pockets were meant for sale to the children and youngster, case has been registered under Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015, besides offence under NDPS Act.



Crl.O.P.No.15672 of 2024

6. According to the learned Additional Public Prosecutor (Pondy) appearing for the State, there is a *prima facie* material against this petitioner to proceed with the investigation. She had been in company with A1 who is already a drug addict and three cases been pending against him and the association of A2 with A1 been for long time and when 3 Kgs of Ganja recovered from A1 by Villianur Police in Crime No.279 of 2017, the petitioner herein was found along with A1. However, since there was no material to infer she had knowledge about the Ganja held by A1, she was not arrayed as accused in that case. Whereas, in this case 2 pockets out of 4 pockets of Ganja were seized from her.

7. Considering the material collected against this petitioner in the course of investigation, this Court finds that it is not a case to quash under Section 482 of Cr.P.C., since the material placed by the prosecution reveals conscious possession of the contraband recovered. Hence this Criminal Original Petition to quash stands dismissed. If at all there is any infraction of mandatory provision of NDPS Act, the said contention has to be tested in the course of trial and the petitioner herein is given with an opportunity to canvas those points before the trial Court.



Neutral Citation : Yes/No
rpl

2.The Public Prosecutor,
High Court of Madras,
Chennai.

rpl



WEB COPY



CrI.O.P.No.15672 of 2024

CrI.O.P.No.15672 of 2024

05.07.2024