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CrI.R.C.No.2211 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.2211 of 2023 and
CrI.M.P.No.19873 of 2023

1.Chandru
2.Gowtham

... Petitioners

Vs.

State rep. by
The Deputy Superintendent of Police,
NIB-CID, Chennai.
(In Crime No.21/2018).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records connected with the order dated 20.11.2023 in CrI.M.P.No.7449 of 2023 in C.C.No.136 of 2019 on the file of the learned 1st Additional Special Court for NDPS Act, Chennai in Crime No.21 of 2018 on the file of the respondent and set-aside the same as illegal.

For Petitioners	:	Mr.S.Mohamed Ansar
For Respondent	:	Mr.C.E.Pratap, Government Advocate (Criminal Side)

ORDER

The petitioners who are A3 and A6 in C.C.No.136 of 2019 facing trial for offence under Sections 8(c), 20(b)(ii)(C), 25, 27A and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 have filed a discharge petition under Section 227 of Cr.P.C., before the learned Special Judge, I Additional



Special Court for exclusive trial of cases under NDPS Act, Chennai (trial Court)

in Crl.M.P.No.7449 of 2023 in C.C.No.136 of 2019. The trial Court, by order, dated 20.11.2023 dismissed the same, against which, the present Criminal Revision Case has been filed.

2.The contention of the petitioners is that they have been arrayed as accused based on the confession statement of the co-accused and there is no material against them. The Investigating Officer failed to collect any other material to substantiate the charges against the petitioners and there is no evidence to show that they were present in the scene of occurrence along with the other accused. The car viz., Hyundai Verna bearing Reg.No.TN 04 AJ 4098 was found in the scene of occurrence and contraband was seized from the said car. Added to it, there is no connection between the petitioners and the seized car. Further, the contraband was produced before the trial Court after lapse of sixty days and no explanation or any reason given for the same. Having no materials but terming the petitioners as accused based on the confession of the one of the accused would not stand the test of scrutiny in the eye of law, hence, the petitioners need not undergo the ordeal of trial. The trial Court without considering these aspects mechanically dismissed the petition holding that the points raised by the petitioners have to be established only during the course of



the trial and not at this stage. Hence, prays for setting aside the impugned order.

3.The learned Government Advocate (Criminal Side) appearing on behalf of the respondent Police strongly opposed the petitioners' contention and submitted that on 05.04.2018, at about 07.15 p.m., the Inspector of Police attached to the respondent Police Station received secret information, on receipt of the same, recorded the same in writing and forwarded it to the Deputy Superintendent Police. Thereafter, the Inspector of Police reached the spot with a team and accessories. They reached Redhills Koot Road Junction as per the information received and intercepted Hyundai Verna car bearing Reg.No.TN 04 AJ 4098. After following statutory compliances, a search was made and 111.62 kgs of ganja seized and recovered from the car. On enquiry, it is seen that all the accused have conspired in transportation of ganja. Taking advantage of the darkness and location of the spot, some accused fled away from the scene and only A1 and A2 could be apprehended. Thereafter, on sustained investigation, the petitioners involvement in committing offence proved. Recording the statement of witnesses and collecting materials, charge sheet against A1 to A7 filed for offence under Sections 8(c), 20(b)(ii)(C), 25, 27A and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985. On perusal of the final



report and materials submitted finding *prima facie* case against the petitioners,

the trial Court took cognizance against all the accused and the case is now pending trial in C.C.No.136 of 2019. There are fourteen witnesses listed in the final report. The seized contraband is huge commercial quantity around 111.62 kgs.

4.He further submitted that it is a case of conspiracy which can be inferred and decided only after recording the entire evidence and materials during trial. The petitioners if at all got a valid defence, the same can be considered during trial. The petitioners' contention are disputed facts. Hence, the impugned order needs no interference.

5.Considering the submissions and on perusal of the materials, it is seen that in this case, totally seven accused in which the petitioners are A3 and A6 and they are facing trial for offence under Sections 8(c), 20(b)(ii)(C), 25, 27A and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985. It is also seen that a large group have conspired together in commission of the offence and also by financing illegal activities. In the car viz., Hyundai Verna bearing Reg.No.TN 04 AJ 4098, 111.62 kgs of ganja seized and recovered on the secret information received by the respondent Police.



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6. Section 29 of the NDPS Act deals with abetment and criminal conspiracy. The contention of the petitioners that only on the confession of the co-accused, they have been implicated as accused cannot be countenanced at this stage. Only after consideration of entire evidence both oral and documentary, the contention of the petitioners can be considered by the trial Court.

7. In view of the above, this Court does not find any illegality or infirmity in the impugned order, dated 20.11.2023 passed by the trial Court and the same is hereby confirmed. Accordingly, this Criminal Revision Case stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

03.01.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

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To

1. The Special Court,

I Additional Special Court for exclusive trial of cases under NDPS Act,
Chennai.



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M.NIRMAL KUMAR., J.

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2.The Deputy Superintendent of Police,
NIB-CID, Chennai.

3.The Public Prosecutor,
Madras High Court.

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