



Crl.A.No.9 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 12.06.2025

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.9 of 2023

R.Kumaravel

..... Appellant

Vs

State by
The Inspector of Police,
Malaiyampalayam Police Station,
Malaiyampalayam,
Modakkurichi Taluk,
Erode District.
Crime No.160 of 2018

..... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, to set aside the order passed in C.C.No.62 of 2020, dated 19.12.2022 on the file of the Special Court under EC Act/NDPS Act, Coimbatore District.

For Appellant : Mr.C.Prakasam
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed challenging the order dated 19.12.2022 passed in C.C.No.62 of 2020 on the file of the Special Court under

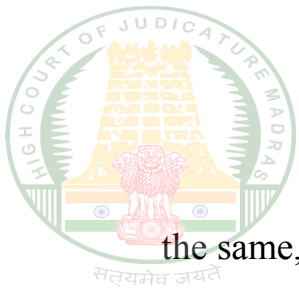


EC Act/NDPS Act, Coimbatore District, thereby convicted the appellant for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act.

2. The case of the prosecution is that, on 31.10.2018 at about 08.30 hours, on Erode to Karur Road, near Uthandampalayam Privu, the petitioner was found in possession of 1.200 kg of Ganja for sale. After completion of investigation, a final report was filed before the Special Court under EC Act/NDPS Act, Coimbatore and same has been taken cognizance in C.C.No.62 of 2020 for the offence punishable under Sections 8(c) read with 20(b)(ii)(B) of NDPS Act.

3. Before the Trial Court, the prosecution examined six (6) witnesses as PW.1 to PW.6, marked eleven (11) documents as Ex.P1 to Ex.P11 and produced two (2) material objects as M.O.1 & M.O.2. On the side of the accused, no witness was examined and no document was marked.

4. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty, convicted for the offence under Section 20(b)(ii)(B) of NDPS Act and sentenced him to undergo 10 years Rigorous Imprisonment and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo a further period of 2 years of Rigorous Imprisonment. Aggrieved by



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the same, the present Criminal Appeal has been filed.

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5. The learned counsel for the appellant would submit that though the occurrence was allegedly took place at a location where several members of the public were present, the respondent did not even subject any public witnesses for the arrest, seizure or search. In fact, the observation witness turned hostile and the trial Court convicted the appellant only on the basis of the police witnesses. The Village Administrative Officer, who was examined as PW.2, also refused to support the statement prepared by the respondent. Therefore, the prosecution miserably failed to prove the case and failed to establish the charge against the appellant. Further, there are contradictions between PW.1 and PW.2 with regard to place of occurrence and whether they came to the scene of crime by two wheeler or police jeep.

6. Heard the learned counsel appearing for the appellant, the learned Additional Public Prosecutor appearing for the respondent police and perused the materials available on record.

7. On perusal of oral and documentary evidence, it is found that



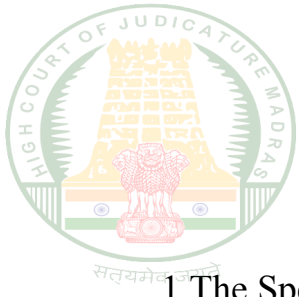
there is a basic contradiction in the depositions made by PW.1 and PW.2 with regard to place of occurrence and whether they came to the scene of crime by two wheeler or police jeep, which makes the case of the prosecution highly doubtful. Therefore, even this fact has not been truly spoken to by the prosecution witnesses. The glaring contradiction about the incident renders the case of the prosecution doubtful.

8. In view of the above, this Court finds that the Trial Court miserably failed to appreciate the evidence properly, which are self contradictory and does not support the case of the prosecution. Hence the ***Criminal Appeal is allowed***. The conviction and sentence of the Trial Court is hereby set aside. The appellant is set at liberty. Fine amount, if any paid by the accused shall be refunded to him. Bail bond if any executed by the accused shall stand discharged.

12.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To



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1.The Special Court under EC Act/NDPS Act,
Coimbatore District.

2.The Inspector of Police,
Malaiyampalayam Police Station,
Malaiyampalayam,
Modakkurichi Taluk,
Erode District.

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



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G.K.ILANTHIRAIYAN, J.

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