



Crl.A.No.143 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2025

CORAM

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

Crl.A.No.143 of 2023

1. Tamil @ Tamilarasan
2. Mani @ Marimuthu

... Appellants

Vs

State represented by,
The Inspector of Police,
J11, Kannagi Nagar Police Station,
Chennai.

Cr.No.290 of 2018.

...Respondent

PRAYER : Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, to set aside the judgment passed against the appellants 1 and 2 on 13.10.2022 on the file of the Principal Special Court under EC and NDPS Act, Chennai in CC.No.151 of 2018 and acquit them from all the charges.

For Appellants : Mr.S.Senthilvel

For Respondent : Mr.S.Raja Kumar

Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed as against the order passed in CC.No.151 of 2018, dated 13.10.2022 by the Principal Special Court under EC and NDPS Act, Chennai, thereby convicting the appellants for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(B) of NDPS Act.



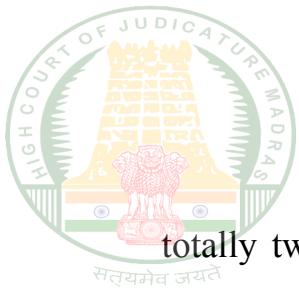
Crl.A.No.143 of 2023

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2. The case of the prosecution is that on 15.05.2018, the respondent had received a secret information through office phone that the accused persons are selling ganja daily near Pond at VOC Street, PTC through packets with polythene covers. After informing to the Superior Officer, obtained permission to secure the accused persons. The respondent's team went to the scene of crime and found that the accused were in possession of contraband weighing 2.400 kgs. After lifting two samples each weighing 50 kgs, the appellants were arrested and remanded to judicial custody. After completion of investigation, filed a final report and the same has been taken cognizance by the Trial Court.

3. On the side of the prosecution, they had examined PWs.1 to 4 and marked Exs.P1 to P10 and produced M.Os.1 to 6. On the side of the appellant, they had marked Exs.D1 and D2 through PW.1. A perusal of oral and documentary evidence, the Trial Court had convicted the appellants for the offences under Section 8(c) read with Section 20(b)(ii)(B) of NDPS Act and sentenced them to undergo five years rigorous imprisonment and imposed fine of Rs.50,000/- each, in default to undergo six months rigorous imprisonment.

4. The learned counsel for the appellants would submit that there are



Crl.A.No.143 of 2023

totally two accused, in which the appellants are arrayed as A1 and A2. Both appellants have already undergone incarceration for a period of more than four years. Though the samples were allegedly taken from the contraband, each weighing 50 gms, the report marked as Ex.P10 issued by the Forensic Laboratory, stated that the samples actually weighed only 55 gms and 43 gms. There is absolutely no explanation by the prosecution to substantiate the samples regarding the weight. Since the first appellant has previous antecedents, a false case has been foisted as against the appellants, as if each of the appellants were in possession of 1200 gms of Ganja. Though the scene of occurrence being a public place, frequented by a large number of general people, no independent witness was examined by the prosecution, to bring the charges to home. This amounts to a clear violation of the mandatory procedures under the NDPS Act.

5. The learned Additional Public Prosecutor submitted that the prosecution had examined PWs.1 to 4 and categorically proved the case of the prosecution. Both the appellants were found in possession of the contraband weighing 1200 gms each. After complying with all the procedures as contemplated under the NDPS Act, the respondent filed a final report and conducted a trial.



Crl.A.No.143 of 2023

6. Heard both sides and perused the materials available on record.

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7. Though the learned counsel for the appellants placed several grounds, this Court finds no grounds to interfere with the conviction and sentence imposed by the Trial Court. However, considering the period of incarceration by the appellants herein, this Court is inclined to modify the sentence alone.

8. In view of the above, while confirming the conviction imposed as against the appellants for the offences under Section 8(c) read with Section 20(b)(ii)(B) of NDPS Act, the sentence imposed on them in CC.No.151 of 2018 dated 13.10.2022 by the Principal Special Court under EC and NDPS Act, Chennai alone is reduced to the period of incarceration which were already undergone by the appellants.

9. Accordingly, this Criminal Appeal stands partly allowed.

06.06.2025
(½)

Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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Crl.A.No.143 of 2023

To
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1. The Principal Special Court under EC and NDPS Act,
Chennai.
2. The Inspector of Police,
J11, Kannagi Nagar Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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Crl.A.No.143 of 2023

G.K.ILANTHIRAIYAN, J.

mn

Crl.A.No.143 of 2023

06.06.2025