



Crl.A.No.198 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.198 of 2023

Tamil @ Tamilarasan

... Appellant

Vs

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

Cr.No.74 of 2019.

...Respondent

PRAYER : Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, to set aside the judgment passed against the appellant on 25.01.2023 on the file of the Principal Special Court under EC and NDPS Act, Chennai in CC.No.170 of 2019 and acquit him from all the charges.

For Appellant : 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.170 of 2019, dated 25.01.2023 by the Principal Special Court under EC and NDPS Act, Chennai, thereby convicting the appellant for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(B) of NDPS Act.

2. The case of the prosecution is that on 14.02.2019, on receipt of the

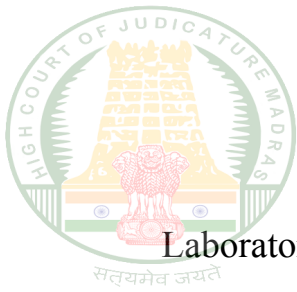


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secret information, the respondent came to the scene of occurrence and found that the appellant was in possession of Ganja weighing 1200 gms. After taking two samples weighing 50 gms for chemical analysis, FIR has been registered and appellant was arrested and remanded to judicial custody. After completion of investigation, filed final report and the same has been taken cognizance by the Trial Court in CC.No.170 of 2019.

3. On the side of the prosecution, they had examined PWs.1 to 5 and marked Exs.P1 to P11. The prosecution had produced material objects and marked as M.O.1 to M.O.3. On the side of the appellant, no one was examined and no document was marked. A perusal of oral and documentary evidence, the Trial Court had convicted the appellant for the offence under Section 8(c) read with Section 20(b)(ii)(B) of NDPS Act and sentenced him to undergo five years rigorous imprisonment and imposed fine of Rs.50,000/-, in default to undergo six months rigorous imprisonment.

4. The learned counsel for the appellant would submit that the appellant had 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



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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 appellant has previous antecedents, a false case has been foisted as against the appellant, as if the appellant was found 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 5 and categorically proved the case of the prosecution. The appellant was found in possession of the contraband weighing 1200 gms. After complying with all the procedures as contemplated under the NDPS Act, the respondent filed a final report and conducted a trial.

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

7. Though the learned counsel for the appellant 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



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incarceration by the appellants herein, this Court is inclined to modify the sentence alone.

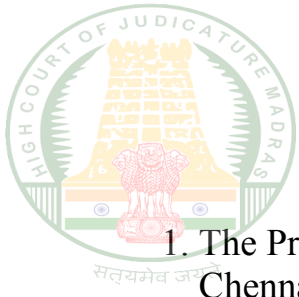
8. In view of the above, while confirming the conviction imposed as against the appellant for the offences under Section 8(c) read with Section 20(b)(ii)(B) of NDPS Act, the sentence imposed on him in CC.No.170 of 2019, dated 25.01.2023 by the Principal Special Court under EC and NDPS Act, Chennai alone is reduced to the period of incarceration which were already undergone by the appellant.

9. Accordingly, this Criminal Appeal stands partly allowed.

06.06.2025
(2/2)

Speaking order/Non-speaking order
Index : Yes/No
Internet : Yes/No
mn

To



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1. The Principal Special Court under EC and NDPS Act,
Chennai.

WEB COPY

2. The Inspector of Police,
J11, Kannagi Nagar Police Station,
Chennai.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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