



Crl.O.P.No.4419 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.02.2025

CORAM:

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

Crl.O.P.No.4419 of 2025 &

Crl.M.P.Nos.2787 & 2788 of 2025

Srikanth @ Chintu

... Petitioner

Vs.

1. State: Inspector of Police,
V 5, Thirumangalam Police Station,
Chennai.
(Cr.No.182 of 2022)
2. Mr.Thangamadhavan,
Sub Inspector of Police,
V5, Thirumangalam Police Station,
Chennai.

.. Respondents

PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the charge sheet in C.C.No.889 of 2023 pending on the file of the learned II Addl. Special Court for Exclusive Trial of Cases under N.D.P.S.Act Cases at Chennai and quash the same.



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For Petitioner : Mr. M.P.Saravanan

For Respondents

For R1 : Mr. A.Gopinath,
Government Advocate (Crl. Side)

ORDER

This petition has been filed to quash the proceedings in C.C.No .889 of 2023 on the file of II Additional Special Court for Exclusive Trial of cases under N.D.P.S.Act Cases at Chennai thereby taken cognizance for the offences under Sections 8(c), 22(c), 29(1) and 25 and 20(b)(ii)(B) of NDPS Act in Crime No 182 of 2022 , as against this petitioner.

2. The case of the prosecution is that on 29.05.2022, on confidential information, the respondent police team monitored two persons who came near car parking area in V.R.Mall and subsequently, when they searched A1 and A2, they found A2 in illegal possession of six numbers of 1.4 mg of DOB stamps and A3 in illegal possession of six numbers of 1.4 mg of DOB stamps. Based on the confessions statements of A2 and A3, the respondent police recovered 577 grams of Hash from the petitioner . Subsequently an FIR was registered in Cr.No.182 of 2022



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arraying the petitioner as A1.

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3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Totally there are three accused in the case, in which, the petitioner is arrayed as A1. He has been implicated only on the strength of the confession statement of A2. Though there was a recovery from the petitioner, it is only an intermediate quantity and subsequently no specific overt act is alleged as against the petitioner. Hence he prayed to quash the proceedings as against the petitioner in C.C.No.889 of 2023 on the file of II Additional Special Court for Exclusive Trial of cases under N.D.P.S.Act Cases at Chennai

4. The learned Government Advocate (Crl. Side) would submit that the petitioner is the main accused in this case and based on the confession given by A2 and A3, the petitioner was implicated in the case and 77 grams of Hash has been recovered from the petitioner.



5. Heard the learned Counsel appearing on either side and perused

the materials placed on record.

6. On perusal of records, it is seen that the petitioner has been implicated as accused on the strength of the confession statement given by A2, followed by which, there was a recovery of 77 grams of Hash from the petitioner. Though the petitioner pleads that the recovery of the contraband is of intermediate quantity, there were serious allegations as against the petitioner for the offence under sections 8(c), 22(c), 29(1) and 25 and 20(b)(ii)(B) of NDPS Act and the petitioner herein was arrayed as prime accused/A1. Perusal of records would further reveal that there are specific allegations as against the petitioner to attract the offence of NDPS Act.

7. It is seen that pursuant to seizure of contraband, the police registered a case in Crime No 182 of 2022 for the offences under Sections 8(c), 22(c), 29(1) and 25 and 20(b)(ii)(B) of NDPS Act. After completion of investigation, the respondent police filed a final report and the same has been taken cognizance in C.C.No.889 of 2023 by the trial Court and it is



pending. To quash the said criminal proceeding, the petitioner filed the present petition.

7. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

8. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of **Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019 dated**



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17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.



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11. In view of the above discussion, this Court is not inclined to quash the proceedings against the petitioner in C.C.No.889 of 2023 on the file of the on the file of the learned II Addl. Special Court for Exclusive Trial of Cases under N.D.P.S.Act Cases at Chennai. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.



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12. Accordingly, the Criminal Original Petition stands dismissed.

WEB CON Consequently, the connected miscellaneous petitions are also closed.

18 .02.2025

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

To

1. The II Addl. Special Court for Exclusive Trial of Cases
under N.D.P.S.Act Cases at Chennai.

2.The Inspector of Police,
V 5, Thirumangalam Police Station,
Chennai.

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



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G.K.ILANTHIRAIYAN. J,

msr

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