



CrI.A.No.190 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 27.06.2025

CORAM:

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

CrI.A.No.190 of 2023

1. Arunpandi

2. Vignesh

...Appellants

Vs.

State, represented by the
Inspector of Police,
M4, Redhills Police Station,
Chennai -600 052.
(In Crime No. 3789/2020)

...Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C, to set aside
the conviction judgment dated 13.02.2023 in C.C.No.32 of 2021 on the file of
Principal Special Court under EC & NDPS Act, Chennai.

For Appellants : Mr.S.Karthikeyan
for M/s.V.Karnan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

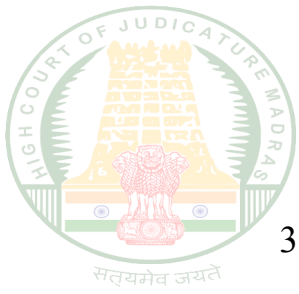


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ORDER

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2. The case of the prosecution is that, on 18.08.2020, at around 1:00 a.m., P.W.1 received secret information from an informer that two persons were coming through MA Nagar Toll Plaza and transporting Ganja in a Dost van bearing registration number TN64-P-1042. After submitting the information to the superior officer, P.W.1 obtained permission to proceed to the spot along with the police party, namely P.W.2, at about 1:15 a.m. They intercepted the said vehicle and upon enquiry, found that the second and third accused were in the vehicle and were in possession of 18 plastic gunny bags containing Ganja. Out of these 18 bags, 5 bags weighed 35 kgs each, 3 bags weighed 25 kgs each, 9 bags weighed 21 kgs each, and 1 bag weighed 21 kgs.



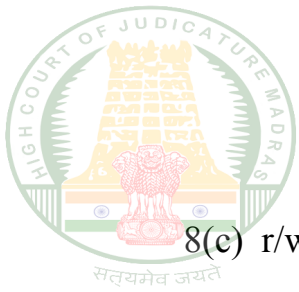
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3. After following the formalities and taking samples, the entire

contraband was seized and their confession statements were recorded.

Thereafter, they were arrested and brought to the respondent police station with a special report. Based on the special report, the respondent registered Crime No. 3789 of 2020 for the offence punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the NDPS Act, 1985. After completion of the investigation, the respondent police filed the final report, and the same was taken into cognizance by the trial Court.

4. In order to prove the charges, the prosecution examined P.W.1 to P.W.7 and marked Ex.P1 to P36. The prosecution also produced Material Objects No. 1 to 54. On the side of the accused, no one was examined and no documents were marked before the trial Court to disprove the case of the prosecution. Upon perusal of the oral and documentary evidence, the trial Court found the appellants guilty and sentenced them to undergo 12 years of rigorous imprisonment each and to pay a fine of Rs. 1,20,000/- each for the offence punishable under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act, and in default, to undergo 6 months of rigorous imprisonment. Further, they were convicted and sentenced to undergo 5 years of rigorous imprisonment each and to pay a fine of Rs. 50,000/- each for the offence punishable under Section



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8(c) r/w 29(1) of the NDPS Act, and in default, to undergo 6 months of rigorous imprisonment. Further, the first appellant was convicted and sentenced to undergo 12 years of rigorous imprisonment and to pay a fine of Rs. 1,20,000 for the offence under Section 8(c) r/w 25 of the NDPS Act. Aggrieved by the same, the present appeal is filed.

5. The learned counsel appearing for the appellant submits that even before the registration of the FIR, the crime number was mentioned in the seizure mahazar, arrest card, arrest memo. According to the prosecution's case, after the search and seizure, and the issuance of the arrest memo, the special report was prepared by P.W.1, and the accused were brought along with the contraband to the respondent police station. Thereafter, the respondent registered the FIR. However, the FIR crime number was mentioned in documents that were allegedly prepared prior to the registration of the FIR. Therefore, the very case of the prosecution itself is doubtful, and the prosecution failed to prove the case beyond reasonable doubt.

6. The search notices of the appellants were marked as Exs.P2 and P3, and the seizure mahazar was marked as Exs.P4. The arrest memos of the appellants were marked as Exs.P5 and P6. A perusal of Exs.P5 and P6 reveals



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that they contained the Crime No.3789 of 2020. According to the prosecution, the time of the arrest memo was 3:45 a.m. On 18.08.2020. The FIR was marked as Ex.P16, which was registered on 18.08.2020 at about 5:30 a.m. Therefore, the entire case of the prosecution is doubtful, and the prosecution has miserably failed to prove the charges against the appellants.

7. In this regard, the learned counsel for the appellants relied on the judgment of the Hon'ble Supreme Court of India in the case of ***Kaaljit Singh @ Pappu Vs. State of Punjab*** reported in ***(2020) 14 SCC 9*** wherein it is held as under:

“ 6. This Court, in the recent decision in the case of [Mohan Lal Vs. The State of Punjab](#) – AIR 2018 SC 3853, has frowned upon the same police official being the informant and the investigating officer. The court has observed thus:

“25. In view of the conflicting opinions expressed by different two Judges Benches of this Court, the importance of a fair investigation from the point of view of an accused as a guaranteed constitutional right under [Article 21](#) of the Constitution of India, it is considered necessary that the law in this regard be laid down with certainty. To leave the matter for being determined on the individual facts of a case, may not only lead to a possible abuse of powers, but more importantly will leave the police, the accused, the lawyer and the courts in a state of uncertainty and confusion which has to be avoided. It is therefore held that a fair investigation, which is but the very foundation of fair trial, necessarily postulates that the informant and the investigator must not be the same person. Justice must not only be done, but must



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appear to be done also. Any possibility of bias or a predetermined conclusion has to be excluded. This requirement is all the more imperative in laws carrying a reverse burden of proof.”

7. Indeed, Manjit Singh (PW 2) had received information telephonically and had passed on the same to his contemporary who recorded the FIR but the fact remains that he himself investigated the case. The unfairness in investigation becomes more glaring when we peruse the search and seizure panchanamas. It is seen that the FIR number has been noted at the top of these panchanamas. It is unfathomable as to how the FIR number could be noted on the search and seizure panchanamas when the same were drawn up obviously at an earlier point in time and preceded the registration of the FIR. Even this discrepancy has not been explained by the prosecution at all. Furthermore, we find that the FIR has been registered by Nirmaljit Singh but he has not been examined by the prosecution and no explanation is offered in this regard as well.

8. All these deficiencies, in our opinion, create serious doubts and are fatal to the prosecution case, for which reason the appellant deserves to be acquitted of the stated offence by giving him the benefit of doubt. We order accordingly. The bail bond stands discharged. The appeal is allowed.”

8. The above case is squarely applicable to the case on hand. It is seen from the Exs.P5 to P6 that Crime No.3789/2020 is contained in all those documents. It clearly shows that the arrest memos were already prepared and served on the appellants at the place of scene of crime. The prosecution failed to explain the discrepancy, and it is apparent on the face of the record in the



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prosecution's case. Therefore the prosecution failed to prove the case beyond the doubt and the benefit of doubt goes in favour of the appellants. Hence, this Court feels that the above conviction and sentence imposed on the appellants cannot be sustained and the same is liable to be quashed.

9. Accordingly, this Criminal Appeal is *allowed*. The conviction and sentence imposed by the judgement dated 13.02.2023 in C.C.No. 32 of 2021 on the file of the Principal Special Court under EC & NDPS Act, Chennai shall stand set aside.

27.06.2025

Neutral Citation: Yes/No
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G.K.ILANTHIRAIYAN, J.

nsI

To

1. The Inspector of Police,
M4, Redhills Police Station,
Chennai -600 052.
2. The Additional Public Prosecutor,
High Court of Madras.
3. The Principal Special Court under EC & NDPS Act,
Chennai.

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