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Crl.O.P.No.7015 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2025

CORAM:

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

Crl.O.P.No.7015 of 2025
and Crl.M.P.No.4481 of 2025

Aashik Ali @ Aashik

... Petitioner

Vs

The State of Tamil Nadu,
represented by the Inspector of Police,
Saravanampatti Police Station,
Coimbatore District.

Crime No.206 of 2023.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to C.C.No.97 of 2023 pending on the file of the Hon'ble Additional District Judge, EC Court, Coimbatore and quash the same as against the petitioner/Accused No.8.

For Petitioner : Mr.R.Radha Pandian

For Respondent : M/s J.R.Archana

Government Advocate (Crl.side)



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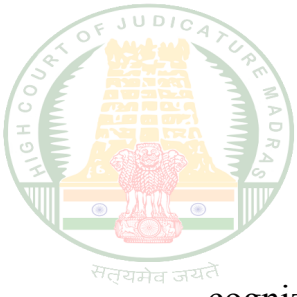
ORDER

This Criminal Original Petition has been filed challenging the charge sheet in C.C.No.97 of 2023 pending on the file of the Additional District Judge, EC Court, Coimbatore.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The case of the prosecution is that on secret information the respondent Police went to the scene of occurrence and found that the accused were in possession of ganja and other narcotic substances to sell the same to the college students. A1 was found in possession of 53 gms of Methaphatamine. A2 was in possession on 500 gms of ganja. Hence, the complaint.

4. On receipt of the complaint, the respondent Police registered FIR in Crime No.206 of 2023 under Sections 8(c) read with 20(b)(ii)(A), 22(c) and 29(1) of NDPS Act. After completion of investigation, the respondent Police filed a final report and the same has been taken



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cognizance in C.C.No.97 of 2023, on the file of the Additional District Judge (EC Court), Coimbatore for the offences punishable under Sections 8(c) read with 20(b)(ii)(A), 22(c) and 29(1) of NDPS Act.

5. The learned counsel for the petitioner would submit that the petitioner is arrayed as A8 and he is an Advocate and appeared on behalf of A1 and A2 in this case. He further submits that the petitioner is an innocent person and only based on the confession statement of co-accused, the petitioner has been falsely implicated in this case.

6. The learned Government Advocate (Crl.side) appearing for the respondent would submit that only on the confession statement of the co-accused, the petitioner has been implicated as an accused.

7. A perusal of records revealed that now the petitioner has been charged for the offences under Sections 8(c) read with 20(b)(ii)(A), 22(c) and 29(1) of NDPS Act alleging that other accused had transferred money to his account from the sales of ganja. It is further revealed that one Jebastin, one of the independent witnesses deposed that he is running



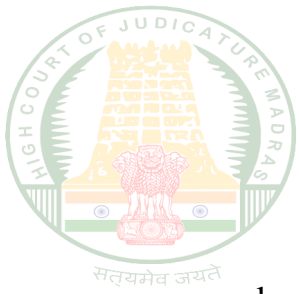
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a mobile service store in the name of “Jeba Mobiles”. He is also doing money transfer. While being so, one Sivaprasath used to transfer money through G-Pay to the account of the petitioner herein to the tune of Rs.5000/- every time. Except this statement, no one had spoken about the overtact of the petitioner herein. That apart, the said Sivaprasath who used to transfer money in favour of the petitioner is neither an accused nor a witness. Therefore, there is no material to charge the petitioner under Sections 8(c) read with 20(b)(ii)(A), 22(c) and 29(1) of NDPS Act.

8. Except the confession statement of the co-accused, there is absolutely no other material to connect the petitioner in this case. Further, pursuant to the confession statement, there is no recovery from the petitioner.

9. In this regard, it is relevant to refer to the decision of the Hon'ble Supreme Court in *Haricharan Kurmi v. State of Bihar* reported in **(1994) 6 SCR 623**, wherein the Constitutional Bench held that while a confession may be regarded as evidence in a generic sense under Section 30 of the Indian Evidence Act, it is not substantive evidence as defined



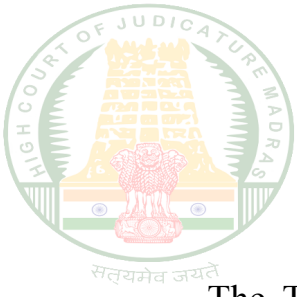
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under Section 3 of the Act. The Court further held that, in a case involving multiple accused, the trial must begin with other evidence adduced by the prosecution and only after forming an opinion on the quality and effect of such evidence, may the Court turn to the confession of a co-accused for corroboration. Therefore, a confession made by a co-accused cannot be treated as substantive evidence, and it may be used only to assure the Court's conclusion after considering other independent evidence.

10. That apart, the petitioner, being an Advocate and also appeared on behalf of A1 and A2, he might have received some fees from them. Only on that score, he cannot be implicated as accused, who had appeared for A1 and A2 before the Court.

11. In view of the above, the impugned proceedings cannot be sustained and is liable to be quashed. Accordingly, the proceeding in C.C.No.97 of 2023 pending on the file of the Additional District Judge, EC Court, Coimbatore, is hereby quashed as against the petitioner alone.



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The Trial Court is directed to proceed with the Trial as against other accused and complete the same, within a period of nine months from the date of receipt of a copy of this order.

12. In the result, this Criminal Original Petition stands allowed.

Consequently, connected Miscellaneous petition is closed.

12.03.2025

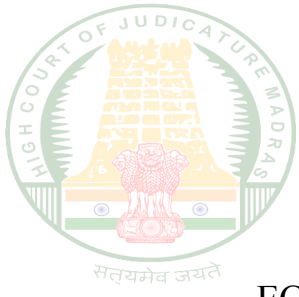
Internet: Yes
Index: Yes/No
Speaking/Non speaking order

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To

1. The Additional District Judge,

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EC Court, Coimbatore.

2. The Inspector of Police,
Saravanampatti Police Station,
Coimbatore District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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