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CrI.A.No.767 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.767 of 2013

Babu

... Appellant/Accused

Versus

State Rep. By

The Inspector of Police,

K6, T.P.Chatram Police Station,

Chennai.

Crime No.190/2002

... Respondent/Complainant

PRAYER : Criminal Appeal filed under Section 374(2) of Cr.P.C. praying to set aside the conviction and sentence passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai made in C.C.No.106 of 2005 by judgment dated 30.09.2013.

For Appellant : Ms.T.Renu
Legal Aid Counsel

For Respondent : Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor



Crl.A.No.767 of 2013

JUDGMENT

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The appellant/accused was convicted by the trial Court in C.C.No.106 of 2005 by the judgment dated 30.09.2013 for offence under Sections 8(c) r/w 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act (in short 'NDPS Act') and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo three months rigorous imprisonment, against which, the appellant/accused had preferred the present appeal.

2.The learned Legal Aid Counsel for the appellant submitted that the grounds raised by the appellant in the appeal is that the trial Court failed to consider the contradiction between the evidence of prosecution witnesses. No independent witness procured at the time of arrest and seizure of contraband and the seizure was made in the presence of police witness. Further, the case property deposited with a delay of 6 days and there is no reason given for the delay and mandatory provision under Section 50 of the NDPS Act not



Crl.A.No.767 of 2013

followed, which was not considered by the trial Court. This Court, by the judgment dated 30.08.2018, dismissed the above appeal without considering the violation of mandatory provisions. For non consideration of the grounds raised by the appellant and also not addressing the violation of mandatory condition, the appellant had preferred an appeal before the Hon'ble Apex Court in Criminal Appeal No.70 of 2021. The Hon'ble Apex Court by the judgment dated 22.01.2021 found that the High Court not considered the submissions raised specifically by the appellant while dismissing the appeal. Further observed that the High Court ought to have reappraised the entire evidence to consider as to whether the conviction recorded by the trial Court is supportable by the evidence on record and set aside the judgment of this Court dated 30.08.2018 and remitted back the case to this Court for re-hearing the appeal. She further submitted that there is no answer to the violation of mandatory provisions. She further submitted that in this case the appellant was released since he had undergone the period of sentence.



Crl.A.No.767 of 2013

3.The learned Additional Public Prosecutor submitted that in this case

PW1/Sub Inspector of Police, T.P.Chathram was on duty and received secret information on 02.03.2002 regarding illicit sale of Ganja. Immediately PW1 reduced information into writing, obtained permission from superior official. Thereafter, PW1 proceeded to the place of occurrence with his team, identified the appellant/accused, who was found carrying white colour polythene bag. When he was enquired, he was giving contradictory reply. Hence, he was informed that he has got right to be searched before the Judicial Magistrate or before the Investigating Officer as per Section 50 of the NDPS Act and notice/Ex.P2 was served to him. The appellant signed and declined the offer and agreed the search to be conducted by PW1. PW1 searched for two public witnesses from the place and no one was willing to stand as witness. PW1 searched the appellant and from him recovered contraband of 1.200 kgs. of Ganja. Samples M.O.1 and M.O.2 drawn, packed, sealed and thereafter signature of the appellant and the police witnesses obtained. M.O.3, the remaining portion of Ganja seized and



CrI.A.No.767 of 2013

packed. The entire proceedings recorded, recovery mahazar/Ex.P4 prepared and the accused was arrested. PW1 prepared report under Section 57 of NDPS Act and submitted to PW4. PW4/Inspector of Police after receiving the report, registered a case in Crime No.190 of 2002 against the appellant under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act. After completion of investigation, final report filed before the Court.

4.He further submitted that during trial, PW1 to PW4 examined, Exs.P1 to P11 marked and M.O.1 to M.O.3 produced. The trial Court on the evidence of the witnesses and materials produced convicted the appellant and sentenced him as stated above. He further submitted that the appellant was arrested on 30.09.2013 and he was released on bail on 18.04.2014. Thereafter on the conviction, he was recommitted to the prison on 11.06.2019 and he was released on 24.08.2021 after expiry of his period of sentence. A report has been submitted by the Superintendent, Central Prison, Chennai, which is extracted below:



Crl.A.No.767 of 2013

WEB COPY

சிறைகள் மற்றும் சீர்திருத்தப்பணிகளின் துறை தனித்தனியாக

எண்.3725 துறை3/2025

சிறை கண்காணிப்பாளர் அலுவலகம்

மத்திய சிறை 1, சென்னை

தாள்: 07/07/2025

பெருள் மத்திய சிறை 1, சென்னை - சிறைவாசிகளின் விவரங்கள்
கேரியாக விவரங்கள் தெரிவிக்கும் - தொடர்பாக
பார்க்க: K8 TP சத்திரம் காவல் நிலையம் தாங்கள் ஆய்வாளரின் கடிதம்

(1)

பார்க்கையில் காணும் கடிதத்தில் குறிப்பிட்டுள்ள சிறைவாசி பாபு த.பெ மத்திய சிறை
என்பவருக்கு சோரிய விவரங்கள் கீழ்க்கண்ட காரணத்தினால் வழங்கப்படுகிறது.

1. Date of Arrest : 30.09.2013

2. Date on which accused was released on bail : 18.01.2014

3. Date of conviction in Crl.A.No./67 of 2013 : Remitted on this
Prison on 11.06.2019 in
Crl.A.no./67/2013
dated.30.08.2018

4. Date of which sentence was suspended : Prisoner Released on
24.08.2021 by expiry of
sentence

5. Total Days of Incarceration in jail : 914 Days

பெறுவர்

காவல் ஆய்வாளர்

K8 TP சத்திரம் காவல் நிலையம்

கீழ்ப்பாக்கம், சென்னை



சிறை கண்காணிப்பாளர் அலுவலகம்
மத்திய சிறை 1, சென்னை



CrI.A.No.767 of 2013

5.In view of the above, nothing survives for adjudication in this Criminal Appeal and the same stands disposed of.

6.This Court appreciates the service rendered by Ms.T.Renu, learned Legal Aid Counsel for the appellant. The Tamil Nadu State Legal Services Authority shall pay the remuneration to Ms.T.Renu, Legal Aid Counsel.

29.10.2025

Index : Yes / No

Neutral citation : Yes / No

Internet : Yes/No

Speaking / Non-speaking order
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To

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

2.The Inspector of Police,
K6, T.P.Chatram Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.



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Crl.A.No.767 of 2013

M.NIRMAL KUMAR, J.

rsi

Crl.A.No.767 of 2013

29.10.2025