



Crl.A.No.558 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 01.08.2025

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

Crl.A.No.558 of 2023

Murugan

..... Appellant

Vs

State of Tamil Nadu

Represented by Inspector of Police,
NIB-CID, Villupuram FIR No.40/2021
Villupuram District.

..... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to call for the records relating to the proceedings in Special Case No.25 of 2021 on the file of the Special Court for Trial of Narcotic Drugs and Psychotropic Substance Act Cases Villupuram and set aside the order of conviction dated 27.04.2023 and set the appellant at liberty.

For Appellant : Mr.M.Devaraj

For Respondent : Mr.S.Raja Kumar

Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been preferred as against the Judgment dated 27.04.2023 passed in Special Case No.25 of 2021 on the file of the Special Judge, Special Court for Trial of Narcotic Drugs and



Psychotropic Substances Act Cases, Villupuram, thereby convicted the appellant for the offence punishable under Section 8(c) r/w 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act.

2. The case of the prosecution is that, on 14.11.2021, the respondent received secret information that the accused was selling Ganja near Krishnapuram-Kariyamputhoor Road Parhoor Canal. After recording the information, the respondent obtained necessary permission from the superior officer and proceeded to the scene of occurrence. At about 12.30 p.m., the respondent found the accused in illegal possession of 2.200 kgs of Ganja. After completing the formalities as contemplated under the NDPS Act, the petitioner was arrested and brought to the respondent police station. Thereafter, a case was registered in Crime No.40 of 2021 for the offence punishable under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act.

3. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court in Spl.Case No.25 of 2021.



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4. In order to bring home the charges, the prosecution had examined P.Ws.1 to 6 and marked Exs.P1 to P17. The prosecution had also produced M.Os.1 to 3. On the side of the accused, no witnesses were examined and no documents were marked.

5. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty of the offence punishable under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for a period of three months. Aggrieved by the same, the present appeal has been filed by the appellant.

6. The learned counsel appearing for the appellant would submit that even before registration of the FIR, in the rough sketch, a crime number was mentioned by the respondent. Therefore, the entire case registered against the appellant is a false one and the appellant is entitled to be acquitted. Without considering the same, the Trial Court convicted the appellant.

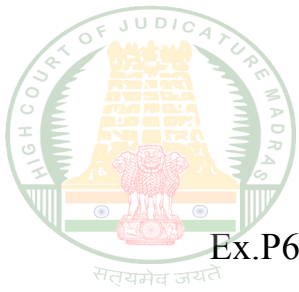


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7. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police would submit that the small discrepancies cannot be fatal to the case of the prosecution. As per the secret information, the accused was found in possession of contraband, which was of commercial quantity. PW.1 categorically deposed about the entire process of arrest and as such, the prosecution had categorically proved the charge. Therefore, the Trial Court had rightly convicted the appellant and it does not warrant any interference by this Court.

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

9. The report filed under Section 57 of the NDPS Act was marked as Ex.P7 and it reveals that after taking samples from the contraband, the confession statement of the appellant was recorded and a rough sketch was prepared between 2.30 p.m. to 3.30 p.m. After preparing the rough sketch, the accused, along with the contraband, was brought to the respondent police station. Thereafter, an FIR was registered. On a perusal of the rough sketch, which was marked as



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Ex.P6, revealed that it contains the crime number. Therefore, the entire case of the prosecution is creates a doubt and the prosecution has failed to prove the charge beyond any reasonable doubt.

10. 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 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.”

11. The above judgment is squarely applicable to the case on hand. Therefore, the Judgment passed by the Trial Court cannot be sustained and is liable to be dismissed.



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12. In view of the foregoing discussions, the Judgment dated 27.04.2023 passed in Special Case No.25 of 2021 on the file of the Special Judge, Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram, is hereby set aside. The appellant is acquitted of all charges under Section 8(c) r/w 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act.

13. The appellant/accused is directed to be set at liberty forthwith, unless his custody is otherwise required in connection with any other case. The fine amount, if any paid, shall be refunded to the appellant forthwith. The bail bond, if any executed, shall stand cancelled.

14. In the result, this Criminal Appeal stands allowed.

01.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The Special Judge,
Special Court for Trial of NDPS Act cases, Villupuram.
2. The Inspector of Police,
NIB-CID, Villupuram
Villupuram District.
3. The Superintendent,
Central Prison, Cuddalore.
3. The Public Prosecutor,
High Court, Madras.

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