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Crl.O.P.No. 12472 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM:

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

Crl.O.P.No.12472 of 2025 and
Crl.M.P.No.8311 of 2025

Rakesh Kumar

... Petitioner

Vs.

State rep by
Inspector of Police
Puzhal Police Station,
Kolathur,
Chennai.
(Crime No.835 of 2023)

..Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call the entire records pertaining to the Crime No.835 of 2023 on the file of the respondent police and quash the same as against this petitioner.

For Petitioner : Mr.N.U.Pressanna

For Respondent : Mr.A.Gopinath,
Government Advocate (crl.side)



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ORDER

This Criminal Original Petition has been filed challenging the FIR in Crime No.835 of 2023, on the file of the respondent Police.

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

3. The case of the prosecution is that on 24.11.2023, while patrolling near Kathirvedu PRH Road, the respondent police, consisting of a Sub-Inspector, Head Constable, and constables, observed three individuals suspected of criminal activity. Upon approaching them, one person fled away, while the petitioner (A1) and one Mohameed Thapik Ezath (A2) were apprehended. As a result of the search of the petitioner and A2, it was revealed that they were in possession of 10 grams of Ganja. They confessed that the fleeing individual, one Marsoop from Ambattur, supplied the contraband. The petitioner (A1) and A2 were detained and the contraband was seized in the presence of official



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witnesses. Pursuant thereto, a case was registered against the accused under Section 20(b)(ii)(A) of the NDPS Act, 1985.

4. Admittedly, even according to the respondent, the petitioner was in possession of 10 gms of Ganja. While arresting the petitioner and while registering the FIR, the respondent did not even follow any of the procedure as contemplated under Section 50 of the NDPS Act. The petitioner was not given any opportunity to make a search on him before any Gazetted Officer or any Police Officer. Section 50 of the NDPS Act is mandatory in nature and the respondent shall have to comply with the said provision while making search and registration of FIR under the NDPS Act.

5. Further, the respondent did not even send any sample for chemical analysis. The alleged contraband was seized from the petitioner on 24.11.2023. However, even till today, the respondent did not send any sample for chemical analysis and it is also not sent to the concerned jurisdictional Court.



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6. Now, the learned Government Advocate (Crl.side) appearing for the respondent Police would submit that after completion of investigation, final report has been filed before the concerned Jurisdictional Court.

7. Without even following the procedure as contemplated under Section 50 of the NDPS Act and without depositing the contraband before the concerned Court, the entire proceedings cannot be sustained as against the petitioner. As per Section 50(6) of the NDPS Act, the Searching Officer after conducting search under sub~section (5) of Section 20 of the NDPS Act, shall record the reasons for such belief which necessitated such search within 72 hours and send a copy to his immediate official superiors. However, the respondent failed to comply with any of the procedures as contemplated under Section 50 of NDPS Act. Further, no independent witness is examined by the respondent and mechanically completed the investigation and filed a final report.



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8. In view of the above, the impugned FIR in Crime No.835 of 2023 on the file of the respondent Police and subsequent proceedings if any, cannot be sustained and is liable to be quashed. Accordingly, the FIR in Crime No.835 of 2023, on the respondent Police and subsequent proceedings if any, are hereby quashed.

9. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

23.04.2025

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

G.K.ILANTHIRAIYAN, J.



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shk

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To

1.The Inspector of Police
Puzhal Police Station,
Kolathur, Chennai.

2. The Public Prosecutor,
High Court, Madras.

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