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Crl.O.P.No.19046 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.19046 of 2025 and
Crl.M.P.No.12938 of 2025

Akash

... Petitioner

Vs.

The Inspector of Police
Anamalai Police Station
Coimbatore District
Crime No.129 of 2019

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to quash the C.C.No.43 of 2020 pending on the file of the Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore District.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition has been filed by the petitioner to quash the C.C.No.43 of 2020 pending on the file of the Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore District.



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2. The learned counsel for the petitioner submitted that the petitioner is facing trial in C.C.No.43 of 2020 for the offence under Section 27(b) of the NDPS Act. The only allegation against the petitioner is that he had consumed the prohibited contraband at the time of occurrence. The contention of the petitioner is that the petitioner has not committed any offence as alleged by the prosecution and that there is no specific overt-act against the petitioner. The learned counsel further submitted that one of the co-accused/A13 had filed a discharge petition before the trial Court, but the same was dismissed, against which, he filed a revision petition before this Court and the same was also dismissed and challenging the same, he approached the Hon'ble Supreme Court by way of filing SLP and that the Hon'ble Supreme Court discharged him from the charges on the ground that the accused was not subjected to medical examination and the confession of the co-accused is not a ground to undergo the ordeal of trial. Subsequently, another accused/A6 preferred a petition before this Court under Section 482 Cr.P.C. to quash the charges against him and this Court, quashed the charges against A6, based on the findings of the Hon'ble Supreme Court in the above SLP. The learned counsel submitted that the petitioner is



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also similarly placed and he has been charged only for the offence of consumption of prohibited drugs. However, there is no medical evidence to show that the petitioner had consumed the Narcotic substances at the time of occurrence and only based on the confession statement of the co-accused, he has been falsely implicated in this case. Therefore, the charges against the petitioner may be quashed. The learned counsel also placed reliance of the decision of the Hon'ble Supreme Court in the case of Suresh Budharmal Kalani Vs. State of Maharashtra.

3. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the petitioner is from Kerala and he also participated in the alleged party and had consumed the prohibited drugs. The presence of the petitioner has not been challenged and when the petitioner was intercepted during interrogation, the petitioner himself admitted that he had consumed drugs. Therefore, the respondent police confirmed that the petitioner is also involved in this case and thereby, the police registered the case against the petitioner also. The citation referred to by the learned counsel for the petitioner is distinguishable and the same is not applicable to the petitioner.

4. Heard both sides and perused the materials available on record.



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5. Admittedly, the respondent police registered a case against the petitioner and others in Crime No.129 of 2019 and after completion of investigation, they laid the charge sheet in the year 2020 itself for the offences under Sections 20(b)(ii)(A), 22(c), 25, 27(a) and 29(1) of the NDPS Act, Sections 3 and 13 of TN Places of Public Resort Act, 1888 and Section 120-B of IPC and the same was taken on file in C.C.No.43 of 2020 on the file of the Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore District. Now the petitioner/A9 has filed the present petition challenging the final report on the ground that one of the co-accused has been discharged by this Court and yet another co-accused has been discharged by the Hon'ble Supreme Court. The petitioner is also a similarly placed against whom, the very same materials are available and therefore, the principles applied to the co-accused by the Hon'ble Supreme Court and this Court, are applicable to the present petitioner also and therefore, the case against the petitioner is liable to be quashed.

6. A reading of the materials shows that there is a specific overt-act against the petitioner. The presence of the petitioner in the party is



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not in dispute. The consumption of prohibited drug is not in dispute. The main ground taken by the petitioner is that he was not subjected to medical examination.

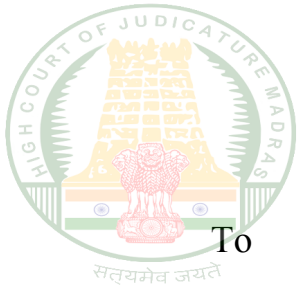
7. The grounds taken by the petitioner are nothing but defence which can be agitated only during trial. Since the presence of the petitioner at the time of occurrence is not in dispute and consumption also prima facie established. Even though the petitioner was not subjected to medical examination, which is not fatal to the case of the prosecution, that may be decided only after trial and not at this stage. Therefore, this Court is not inclined to quash the case against the petitioner in C.C.No.43 of 2020.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

9. However, the petitioner is at liberty to take all his defences before the trial court during the course of trial.

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Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

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1. The Additional District Judge/Presiding Officer,
Special Court for Essential Commodities Act Cases,
Coimbatore District.
2. The Inspector of Police
Anamalai Police Station
Coimbatore District
3. The Public Prosecutor
High Court of Madras, Chennai



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P.VELMURUGAN, J

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