



Crl.A.No.1189 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.08.2025**

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.A.No.1189 of 2025
and
Crl.M.P.No.15249 of 2025

Abdulla Aalim,
S/o. Mr. Ibrahim Ali

... Appellant

Versus

Union, rep. by
The Intelligence Officer,
Narcotics Controal Bureau,
Chennai Zonal Unit, Chennai – 77.
RR.No.06/2019,
IN NCBF.No.48/1/09/2019- NCB/MDs

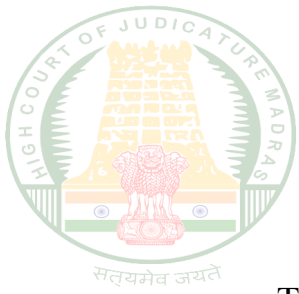
... Respondent

PRAYER: Criminal Appeal filed under Section 36-B of the NDPS Act, 1985 read with under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023, to set aside the conviction and sentence imposed in the judgment dated 05.09.2023 against the appellant herein in C.C.No.141 of 2019 on the file of the II-Additional Special Judge, Special Court for Exclusive Trial Cases under NDPS Act, Chennai and acquit the appellant.

For Appellant : Mr. M.G. Martinmanivannan

For Respondent : Mr. N.P. Kumar,
Special Public Prosecutor.

JUDGEMENT



Crl.A.No.1189 of 2025

WEB COPY

This Criminal Appeal has been filed by the accused/A1, challenging the conviction and sentence imposed upon him vide Judgement dated 05.09.2023 in C.C.No.141 of 2019, on the file of the learned II Additional Special Judge (FAC), II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai.

2. The case of the prosecution is that when P.W.1/The Intelligence Officer attached to the respondent was in his office on 13.07.2019 at about 21.30 hours, he received a secret information that two Maldivan nationals viz., the appellant/A1 and one Shamsiya Mohammed/A2 were indulging in smuggling of Hashish Oil; and that they were carrying 1 Kg of Hashish Oil concealed in Shampoo bottles to Maldives; and that they were leaving for Maldives in Srilankan Airlines Flight UL 122 departing from Chennai on 14.07.2019 at about 10.00 a.m; after that P.W.1 reduced the said information into writing marked as Ex.P1 and submitted the same to P.W.2; that P.W.1 along with the other member of the police party reached the Airport and intercepted the appellant/A1 and A2; and they found two of them were proceeding to Maldives in the Srilankan Airlines; after that PW1 explained the right under Section 50 of the NDPS Act, to the appellant/A1 and A2 and



Crl.A.No.1189 of 2025

on the consent given by the accused, a search was conducted and the respondent found shampoo bottles in the suitcase of the appellant and inside the shampoo bottles, they found a silver coloured foil containing thick concentrated oil; and after test they found that the oil was Hashish Oil. The appellant/A1 and A2 were in possession of 970 grams of Hashish Oil and after complying with the other formalities, registered the FIR and after investigation a final report was filed against the appellant/A1 and A2 for the offences under Sections 8(c) r/w 29(1), 8(c) r/w 20(b)(ii)(B), 8(c) r/w 28 and 8(c) r/w 23 (b) of the NDPS Act, before the learned Principal Special Judge, NDPS Court, Chennai and the same was taken on file as C.C.No.141 of 2019.

2.1 On the appearance of the accused, the provisions of Section 207 Cr.P.C., were complied with and the case was made over to the learned II Additional Special Judge (FAC), II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai, for trial. The trial Court framed charges for the offences under Sections 8(c) r/w 29(1), 8(c) r/w 20(b)(ii)(B), 8(c) r/w 28 and 8(c) r/w 23 (b) of the NDPS Act against the accused, and when questioned, the accused pleaded 'not guilty'.

2.2 To prove the case, the prosecution examined 6 witnesses as P.W.1 to P.W.6, marked 59 documents as Exs.P1 to P59 and marked 8



Crl.A.No.1189 of 2025

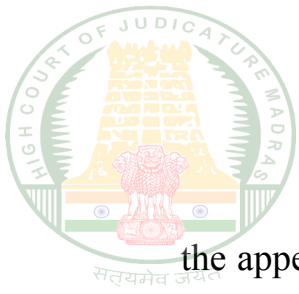
material objects as M.O.1 to M.O.8. When the accused were questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against them, they denied the same. On the side of defence, no oral or documentary evidence was let in.

2.3 On appreciation of oral and documentary evidence, the trial Court found that the prosecution had established its case beyond reasonable doubt and held the appellant/A1 guilty of offences under Sections 8(c) r/w 20(b)(ii) (B) and 8(c) r/w 28 of NDPS Act and sentenced him as follows:

Offence under Section	Sentence imposed
8(c) r/w 20(b)(ii) (B) of NDPS Act	To undergo rigorous imprisonment for eight years and to pay a fine of Rs.80,000/-, in default to undergo rigorous imprisonment for six months.
8(c) r/w 28 of NDPS Act	To undergo rigorous imprisonment for eight years and to pay a fine of Rs.80,000/-, in default to undergo rigorous imprisonment for six months.
The sentences were ordered to run concurrently.	

The Trial Court found the appellant/A1 not guilty of the offence under Sections 8(c) r/w 29(1) and 8(c) r/w 23(b) of the NDPS, Act, and acquitted him of the said offences. Challenging the above conviction and sentence, A1 has filed the present appeal.

3. The learned counsel for the appellant submitted that according to the prosecution's case, there are two accused and both were convicted. Since

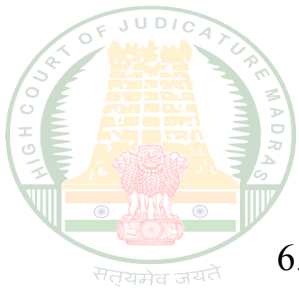


Crl.A.No.1189 of 2025

the appellant had relationship with the accused/A2, he was falsely implicated in this case. However, he submitted that he has already undergone more than six years incarceration of imprisonment. Considering the appeal of the second accused, this Court reduced the sentence from 8 years to one of 5 years and 6 months. Therefore, he prayed that the appellant may also be entitled to the same benefit.

4. Per *contra*, the learned Special Public Prosecutor submitted that the offences committed by the appellant is serious in nature and hence, the conviction and sentence imposed on the appellant is in accordance with law; and the minor contradictions pointed out by the appellant have been considered by the Trial Court elaborately and the Trial Court found that such contradictions would not discredit the testimony of the witnesses and hence prayed for dismissal of the appeal.

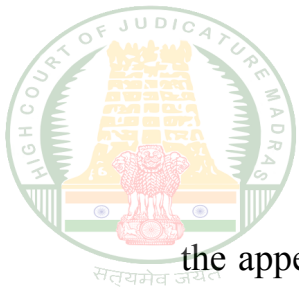
5. Heard, Mr. M.G. Martinmanivannan, learned counsel for the appellant/A1, and Mr. N.P. Kumar, learned Special Public Prosecutor, appearing for the respondent, and also perused the materials available on record.



CrI.A.No.1189 of 2025

6. On perusal of the records, it shows that the prosecution had examined six witnesses. P.W.1 is the person who had recorded the secret information and was a part of the police party, which conducted search and thereafter seized the contraband from the appellant. P.W.2 was working as Superintendent of the respondent police and on information given by P.W.1, he had granted permission to P.W.1 to take necessary action. The report submitted by P.W.1 under Section 57 of the Act to P.W.2 was marked as Ex.P32. P.W.3 was the Assistant Chemical Examiner at Customs House, who received the sample and found on analysis that the sample was Hashish Oil. The report filed by P.W.3 is Ex.P41. P.W.4 was the General Manager at Pearl International in Periamet and had deposed that the appellant/A1 and A2 stayed in the hotel from 05.07.2019 to 14.07.2019. He had also identified both the appellant/A1 and A2 and had also produced the bill copy along with the photo ID proof submitted by the accused/A1 and A2. P.W.5 was working in the Srilankan Airlines and was witness to the search and seizure by P.W.1. P.W.6 is the Intelligence Officer attached to the respondent who conducted the investigation and filed the final report.

7. It is seen from the evidence of P.W.1 that on receiving the secret information, he had gone to the Airport and verified the boarding passes of



Crl.A.No.1189 of 2025

the appellant/A1 and A2 and their passports which were marked as Ex.P6 & Ex.P7 respectively; that he had asked the Airlines staff to bring the bags of the appellant which were already checked in for detailed examination and on search after complying with Section 50 of the NDPS found shampoo bottle, which in turn contained silver coloured foil in which there was a brown colour thick concentrated oil and when tested by NDPS kit, it was found to be Hashish Oil. The evidence of P.W.1 has been corroborated by P.W.2, the officer, who granted permission to P.W.1 and by P.W.5, the Airlines staff. Nothing has been elicited in the cross examination to discredit their testimony.

8. It is seen further from the evidence of P.W.1 that the appellant/A1 was apprised of his right under Section 50 of the NDPS Act and he had given consent for search to be conducted by P.W.1. That apart, it is also seen that one Mrs.Pramila, a lady officer was also present during the Mahazar proceedings and therefore there is no violation of Section 50(4) of the NDPS Act. The other alleged infirmities viz., that Section 52A of the NDPS Act was also not complied with, is also without any basis.

9. This Court on re-appreciation of the evidence is of the view that



Crl.A.No.1189 of 2025

there is nothing to either discredit the testimony of the witnesses or to hold that there is violation of the mandatory provisions. Therefore, this Court sees no reason to interfere with the finding of guilt rendered by the Trial Court for convicting the appellant/A1 for the offences under Sections 8(c) r/w 20(b)(ii) (B) and 8(c) r/w 28 of NDPS Act, the conviction imposed on the appellant by the judgment dated 05.09.2023 passed by the learned II Additional Special Judge, Special Court for Exclusive Trial Cases under NDPS Act, Chennai, in C.C.No.141 of 2019, for the offences under Sections 8(c) r/w 20(b)(ii)(B) and 8(c)r/w 28 of NDPS Act, and Sections 8(c) r/w 23(b) and 8(c) r/w 29(1) of the NDPS Act, are hereby confirmed.

10. However, this Court, upon consideration of the submissions and materials on record, and the period which is already undergone by the appellant, is inclined to reduce the sentence alone. Accordingly, the sentence of eight (8) years of Rigorous Imprisonment is reduced to five (5) years six (6) months for both the offences. Insofar as the fine amount is concerned, since the appellant has not complied with the payment of fine amount, therefore, the default sentence for non payment of fine amount, is also reduced from six (6) months imprisonment to three (3) months imprisonment for both offences.



Crl.A.No.1189 of 2025

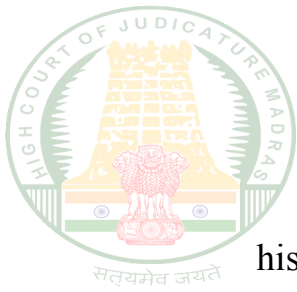
WEB COPY

11. Considering the facts and circumstances of the case, and also taking note of the fact that the appellant has already undergone incarceration from the date of arrest to till date, i.e., more than 6 years, and further considering that the the appellant is a foreign nation unable to comply with payment of fine, this Court is of the view that the ends of justice would be met by reducing the substantive sentence as above and by reducing the default sentence to three months rigorous imprisonment. Accordingly, this Criminal Appeal is partly allowed on the following terms:

(i) The conviction of the appellant/A1 in C.C.No.141 of 2019 by the II Additional Special Judge (FAC), II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai, vide judgment dated 05.09.2023 for the offences under Sections 8(c) r/w 20(b)(ii) (B) and 8(c) r/w 28 of NDPS Act, are hereby confirmed, however, the sentence imposed on the appellant/A1 by the trial Court is reduced to the period of 5 years and 6 months for both the aforesaid offences;

(ii) The fine imposed by the Trial Court for both the offences are confirmed, however the default sentence for non payment of fine i.e. rigorous imprisonment for six months is reduced to rigorous imprisonment for three months for both the offences; and

(iii) If the appellant pays the fine amount of Rs.80,000/- each for the aforesaid offences, he shall be set at liberty forthwith, unless



Crl.A.No.1189 of 2025

WEB COPY

his presence is required in connection with any other case. But, if he fails to pay the fine amount, the default sentence shall commence from today and the default sentence for both the sentences shall run concurrently.

12. In the result, this Criminal Appeal is partly allowed and consequently, the connected miscellaneous petition is also closed.

08.08.2025

Index: Yes/No
Speaking /Non-Speaking Order
Neutral Case Citation : Yes/No

klt

To

1.The II-Additional Special Judge,
Special Court for Exclusive Trial Cases under NDPS Act, Chennai,

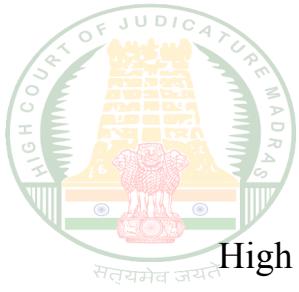
2.The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai – 77.

RR.No.06/2019, IN NCBF.No.48/1/09/2019- NCB/MDs

3.The Superintendent of Police,
Central Prison, Puzhal-I, Chennai.

4.The Special Public Prosecutor,

Page 10 of 12



High Court, Madras.

WEB COPY



Crl.A.No.1189 of 2025



WEB COPY



Crl.A.No.1189 of 2025

G.K.ILANTHIRAIYAN, J.

klt

Crl.A.No.1189 of 2025
and
Crl.M.P.No.15249 of 2025

08.08.2025