

CrI.A.(MD)No.192 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 30.04.2025

PRONOUNCED ON : 09.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CrI.A(MD)No.192 of 2024

R.Manimaran

: Appellant

Vs.

State of Tamil Nadu, rep. by
The Inspector of Police,
NIB CID, Trichy District.
Cr.No.15 of 2021

: Respondent

PRAYER: Appeal filed under Section 454 of the Criminal Procedure Code to call for the records relating to the impugned order passed in CrI.MP.No. 3842 of 2023 in C.C.No.75 of 2021, dated 31.08.2023, on the file of the Additional District Court for EC and NDPS Act Cases, Pudukottai and set aside the same.

For Appellant : Mr.M.Jegadeesh Pandian

For Respondents: Mr.T.Senthil Kumar
Additional Public Prosecutor



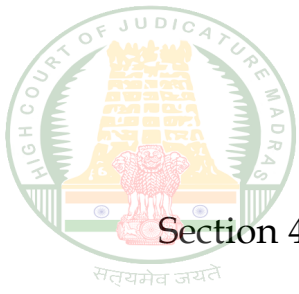
JUDGMENT

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The present criminal appeal is directed against the order dated 31.08.2023 passed by the learned Judge, Additional District Court for EC and NDPS Act Cases, Pudukottai, in Crl.M.P.No.3842 of 2023, whereby the application filed by the appellant seeking release of the vehicle bearing Registration No.TN-57-AQ-2165 [Lorry] was dismissed.

2. The vehicle was seized during investigation in connection with Crime No.15 of 2021 under the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act") in the year 2021 and was produced during trial as material evidence. The trial culminated in a judgment of acquittal in C.C.No.75 of 2021, dated 20.01.2023.

3. In the said judgment, the trial Court did not issue any specific confiscation order under Section 60 of the NDPS Act but observed that the vehicle may be released to the "rightful owner" after expiry of the appeal period or outcome of any appeal filed by the State. The appellant, claiming ownership, sought return of the vehicle through an application under



Section 452(2) CrPC, which was dismissed on the ground that the State had expressed intent to prefer an appeal.

4. Learned Counsel for the appellant contended that the trial having concluded in acquittal, and the Court having recorded that the vehicle may be released to the rightful owner after the expiry of appeal time or disposal of appeal, the vehicle cannot be retained indefinitely. It was argued that a significant period has elapsed and no appeal has been filed. The appellant, as registered owner, is being denied his constitutional right to property under Article 300A of the Constitution of India without any legal justification. It was also submitted that the continued retention of the vehicle serves no evidentiary purpose and causes undue hardship.

5. He has also relied on the decisions of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat* [(2002) 10 SCC 283] and *Basavalingappa v. State of Karnataka* [(2001) 1 SCC 504] to urge that Courts must ensure timely return of seized vehicles when they are no



longer required for evidence and that any delay in returning them constitutes arbitrary deprivation of property.

6. Per contra, learned Additional Public Prosecutor, opposing the appeal, submitted that the vehicle was part of a seizure effected in connection with a grave NDPS offence. Though the trial concluded in acquittal, the seizure was made during lawful investigation, and the appellant had not come forward during investigation or trial to claim the vehicle. He pointed out that the appellant was not an accused and never made any application for interim custody under Section 451 CrPC when the matter was pending before the trial Court. As such, the State could not verify the appellant's ownership or connection to the vehicle when the matter was actively under judicial scrutiny.

7. It was further contended that the appellant's delayed assertion of ownership, only after acquittal of the accused, raises doubts about the bona fides of the claim. Had the appellant come forward earlier, the investigating



agency might have chosen to investigate his role or even added him as an accused if circumstances so warranted. The seizure mahazar and other prosecution records do not mention the appellant's name or ownership documents.

8. Additionally, the learned Additional Public Prosecutor stressed that the appropriate procedure for dealing with such seized conveyances is not direct judicial release, but a structured process involving the Drug Disposal Committee (DDC) under Section 52A of the NDPS Act, Standing Orders, and the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022. The Investigating Officer has already moved the trial Court by way of an application dated 18.10.2023 seeking permission to refer the vehicle to the Drug Disposal Committee, and hence any direct interference would be premature.

9. This Court considered the rival submissions made on either side and perused the materials placed on record.



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10. This Court finds that the appellant's conduct does raise legitimate concerns. The vehicle was seized in the year 2021. During the entire period of investigation and trial, no claim of ownership was made. Even after the vehicle was marked as a material object and retained in custody, the appellant remained silent. Only after the judgment of acquittal, the appellant surfaced with a claim for release.

11. This timing of the claim appears to be calculated. Had the appellant come forward earlier, his connection to the offence, if any, may have been examined further. The strategic silence has insulated him from scrutiny. The contention of the State, that the delay foreclosed an investigative possibility, cannot be lightly brushed aside. It casts a shadow over the claim's bona fides, even if not determinative of entitlement.

12. If the petitioner truly believed he was the lawful owner of the vehicle and was unconnected with the alleged offence, there was no legal



bar on him moving the appropriate forum during trial, especially since the

NDPS Act does not prohibit an innocent owner from seeking return of property.

13. Equally glaring is the failure of the investigating officer to initiate pre-trial disposal proceedings under Section 52A of the NDPS Act. The statute, coupled with the Standing Orders, provides a complete mechanism for inventorying, valuing and disposing of seized articles, including vehicles, even before trial commences. The vehicle has remained in storage since 2021. Despite a full trial and acquittal, no steps were taken either by the Investigating Officer or by the claimant to trigger lawful disposal mechanisms.

14. The NDPS Act provides a special mechanism for disposal of seized contraband, including conveyances (vehicles), as soon as possible, through certification and referral to the Drug Disposal Committee or the Competent Authority, depending upon the nature of seized property. The



legislative object behind this is not merely procedural; it stems from an operational necessity to prevent overcrowding of judicial or police custody spaces, eliminate risks of pilferage or decay, and reduce the burden on Courts to determine ownership post-trial.

15. Section 52A of the NDPS Act, inserted by Act 2 of 1989, lays the foundation for such disposal. It reads as follows:-

“52A. Disposal of seized narcotic drugs and psychotropic substances. –

*(1) The Central Government may, having regard to the hazardous nature, vulnerability to theft, substitution, constraint of proper storage space or any other relevant consideration, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, by notification in the Official Gazette, specify such narcotic drugs, psychotropic substances, controlled substances or conveyance or class of narcotic drugs, class of psychotropic substances, class of controlled substances or conveyances, which shall, **as soon as may be after their seizure, be disposed** of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified.*



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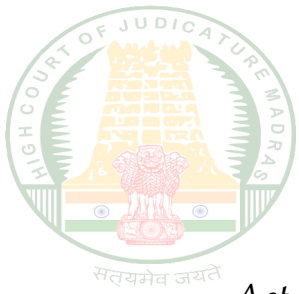
(2) Where any narcotic drugs, psychotropic substances, controlled substances or conveyances has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs, psychotropic substances, controlled substances or conveyances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs, psychotropic substances, controlled substances or conveyances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs, psychotropic substances, controlled substances or conveyances in any proceedings under this Act and make an application, to any Magistrate for the purpose of –

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such magistrate, photographs of such drugs, substances or conveyances and certifying such photographs as true; or

(c) allowing to draw representative samples of such drugs or substances, in the presence of such magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.



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(4) *Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, the photographs of narcotic drugs, psychotropic substances, controlled substances or conveyances and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence."*

16. The legislative object behind Section 52A (vide Act 2 of 1989) was to empower officers to dispose of hazardous or perishable narcotic substances and related items before trial. The Statement of Objects and Reasons clearly reflect this intent:

"... In view of the practical difficulties in storing large quantities of seized drugs for long periods, it is proposed to empower officers to dispose of such drugs expeditiously after due certification ..."

17. With the coming into force of the Narcotic Drugs And Psychotropic Substances (Seizure, Storage, Sampling And Disposal) Rules, 2022, a statutory procedure is provided for the disposal of seized



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conveyances. As per Rule 3(5), the detailed inventory of the packages, containers, conveyances and other seized articles shall be prepared and attached to the panchanama. It is Rule 16 which lists out the items that can be disposed of under Section 52A of the NDPS Act, which includes all narcotic drugs, psychotropic substances, controlled substances and conveyances. As per this Rule, the disposal shall be done as soon as may be after their seizure in the manner determined under Section 52A of the Act. As per Rule 22, conveyances valuing up to 50 lakhs per consignment of material can be ordered for disposal by the Drug Disposal Committee. This aligns with Section 60 of the NDPS Act, which empowers confiscation of such conveyances.

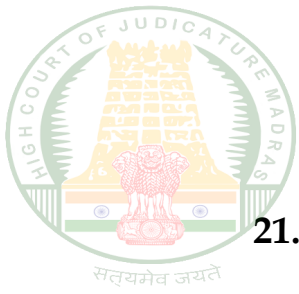
18. Section 2(viii) of the NDPS Act defines “conveyance” to include any aircraft, vehicle or vessel. As per Section 68-B(h), “property” is defined to include any property or assets of every description, whether corporeal or incorporeal, movable or immovable. Section 68-F Explanation further clarifies the term “transfer of property” to encompass any disposition,



conveyance, or assignment. Thus, vehicles may fall under the dual categories of “conveyance” and “property”.

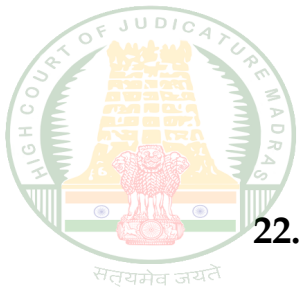
19. A clear legal distinction is to be drawn based on the nature of the vehicle’s involvement in the offence. Where a vehicle is used in the transportation or commission of an NDPS offence, it assumes the character of a “conveyance”, thereby invoking the procedure under Section 52-A and disposal by the Drug Disposal Committee (DDC). Conversely, if a vehicle is purchased using proceeds of criminal activity under the NDPS Act, it is to be treated as “property”, thereby attracting Section 68-I, and disposal or forfeiture by the competent authority under Chapter VA.

20. In the present case, it is undisputed that the vehicle was used for transportation of contraband, and hence, falls within the ambit of a “conveyance”. Consequently, the proper course is to initiate disposal proceedings under Section 52-A through the Drug Disposal Committee, and not through custody under the Code of Criminal Procedure.



21. Recognising the need for an efficient and accountable framework

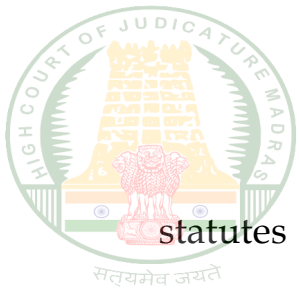
to dispose of seized narcotic substances and conveyances, the legislature incorporated Section 52-A into the NDPS Act via the 1989 amendment. The scope was widened in 2014 to include conveyances, and finally systematised by the NDPS (Seizure, Storage, Sampling and Disposal of Property) Rules, 2022. Rule 18(2) mandates that details of the seized material be submitted to the Chairman of the Drug Disposal Committee for a decision. Rule 20(b) obligates the Committee to conduct a detailed review of seized items pending disposal. Rule 21(2) directs the Committee to physically examine and verify the weight and documents and record its findings. The above provisions reveal that the Drug Disposal Committee is not merely an administrative body but one vested with quasi-judicial character, bound to apply its independent mind to each case before issuing disposal directions. Disposal includes both return of the seized property to a rightful claimant or sale/destruction, as per the circumstances. However, the Committee must act based on material placed before it, observe natural justice, and ensure objective scrutiny. Thus, the process is neither mechanical nor clerical.



22. Though the offence predates the 2022 Rules, these Rules, being delegated legislation, codify the procedural safeguards under Section 52A and must be read as a continuation and formalisation of the earlier instructions and Standing Orders, applicable even to post-trial disposal in pending matters.

23. In addition to the statutory scheme under the NDPS Act and the 2022 Rules, the Court is also bound by the Criminal Rules of Practice, 2019. Under Rule 257(1), where property is produced before the Court during inquiry or trial, the Court is expected to make a conscious determination as to whether the continued retention of the property is warranted. The Rule, read with Section 451 CrPC, obliges the Court to consider disposal or interim release at the earliest appropriate stage, especially where prolonged custody would lead to deterioration or serve no evidentiary purpose.

24. However, it is well settled that powers under Section 451 CrPC, though general in scope, are subject to the overriding control of special



statutes where applicable. In cases under the NDPS Act, the disposal, custody and handling of seized items, including conveyances, is specifically governed by Section 52A of the NDPS Act, reinforced by the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022. Accordingly, while Section 451 CrPC may provide a mechanism for interim custody, it cannot override or dilute the mandatory procedures prescribed under the NDPS Act and its delegated rules.

25. In fact, Rule 257(1) of the Criminal Rules of Practice, 2019, reads as under:-

“Subject to the procedure laid down in special statutes, the Court may give custody of jewels, vehicles, cash and other articles under section 451 of the Code, to competent claimants without imposing onerous conditions. ...”

26. The Hon’ble Supreme Court in *Divisional Forest Officer v. G.V. Sudhakar Rao* [(1985) 4 SCC 573] affirmed that special provisions under statutes such as the Forest Act for confiscation override general CrPC

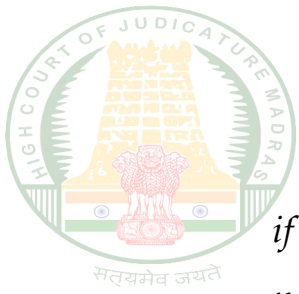


WEB COPY provisions. Confiscation under Section 44(2A) remained valid even after acquittal. The same logic applies here. The NDPS Act is a complete code for seizure and disposal. This reinforces the legal proposition that Section 52A NDPS Act prevails over Section 451 CrPC in cases of seized vehicles.

27. In *Union of India v. Mohanlal* [(2016) 3 SCC 379], the Hon'ble Supreme Court, while directing strict compliance with Section 52A procedures, has observed that Section 52A read with the Standing Order No.1/89 provides for a complete statutory solution to the perennial problem of seized items lying in custody. The observations and directions issued by the Hon'ble Supreme Court are extracted as under:-

"30. In order to avoid any confusion arising out of the continued presence of two notifications on the same subject we make it clear that disposal of narcotic drugs and psychotropic and controlled substances and conveyances shall be carried out in the following manner till such time the Government prescribes a different procedure for the same:

30.1. Cases where the trial is concluded and proceedings in appeal/revision have all concluded finally: In cases that stood finally concluded at the trial, appeal, revision and further appeals,



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if any, before 29-5-1989 the continued storage of drugs and narcotic drugs and psychotropic and controlled substances and conveyances is of no consequence not only because of the considerable lapse of time since the conclusion of the proceedings but also because the process of certification and disposal after verification and testing may be an idle formality. We say so because even if upon verification and further testing of the seized contraband in such already concluded cases it is found that the same is either replaced, stolen or pilferaged, it will be difficult if not impossible to fix the responsibility for such theft, replacement or pilferage at this distant point in time. That apart, the storage facility available with the States, in whatever satisfactory or unsatisfactory conditions the same exist, are reported to be overflowing with seized contraband goods. It would, therefore, be just and proper to direct that the Drugs Disposal Committees of the States and the Central agencies shall take stock of all such seized contraband and take steps for their disposal without any further verification, testing or sampling whatsoever. The heads of the department concerned shall personally supervise the process of destruction of drugs so identified for disposal. To the extent the seized drugs and narcotic substances continue to choke the storage facilities and tempt the unscrupulous to indulge in pilferage and theft for sale or circulation in the market, the disposal of the stocks will reduce the hazards that go with their continued storage and



availability in the market.

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30.2.Drugs that are seized after May 1989 and where the trial and appeal and revision have also been finally disposed of: In this category of cases while the seizure may have taken place after the introduction of Section 52-A in the statute book the non-disposal of the drugs over a long period of time would also make it difficult to identify individuals who are responsible for pilferage, theft, replacement or such other mischief in connection with such seized contraband. The requirement of Para 5.5 of Standing Order No. 1 of 1989 for such drugs to be disposed of after getting the same tested will also be an exercise in futility and impractical at this distant point in time. Since the trials stand concluded and so also the proceedings in appeal, revision, etc. insistence upon sending the sample from such drugs for testing before the same are disposed of will be a fruitless exercise which can be dispensed with having regard to the totality of the circumstances and the conditions prevalent in the malkhanas and the so-called godowns and storage facilities. The DDCs shall accordingly take stock of all such narcotic drugs and psychotropic and controlled substances and conveyances in relation to which the trial of the accused persons has finally concluded and the proceedings have attained finality at all levels in the judicial hierarchy. The DDCs shall then take steps to have such stock also destroyed under the direct supervision of the head of the department concerned.

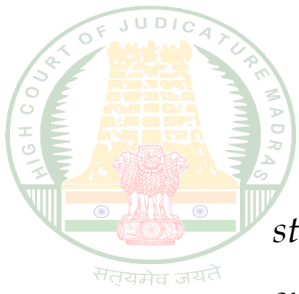


30.3. Cases in which the proceedings are still pending before the Courts at the level of trial court, appellate court or before the Supreme Court: In such cases the heads of the department concerned shall ensure that appropriate applications are moved by the officers competent to do so under Notification dated 16-1-2015 before the Drugs Disposal Committees concerned and steps for disposal of such narcotic drugs and psychotropic and controlled substances and conveyances taken without any further loss of time.

31. To sum up we direct as under:

31.1. No sooner the seizure of any narcotic drugs and psychotropic and controlled substances and conveyances is effected, the same shall be forwarded to the officer in charge of the nearest police station or to the officer empowered under Section 53 of the Act. The officer concerned shall then approach the Magistrate with an application under Section 52-A(2) of the Act, which shall be allowed by the Magistrate as soon as may be required under sub-section (3) of Section 52-A, as discussed by us in the body of this judgment under the heading "seizure and sampling". The sampling shall be done under the supervision of the Magistrate as discussed in Paras 15 to 19 of this order.

31.2. The Central Government and its agencies and so also the State Governments shall within six months from today take appropriate steps to set up storage facilities for the exclusive



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storage of seized narcotic drugs and psychotropic and controlled substances and conveyances duly equipped with vaults and double-locking system to prevent theft, pilferage or replacement of the seized drugs. The Central Government and the State Governments shall also designate an officer each for their respective storage facility and provide for other steps, measures as stipulated in Standing Order No. 1 of 1989 to ensure proper security against theft, pilferage or replacement of the seized drugs.

31.3. The Central Government and the State Governments shall be free to set up a storage facility for each district in the States and depending upon the extent of seizure and store required, one storage facility for more than one districts.

31.4. Disposal of the seized drugs currently lying in the Police Malkhanas and other places used for storage shall be carried out by the DDCs concerned in terms of the directions issued by us in the body of this judgment under the heading "disposal of drugs".

32. Keeping in view the importance of the subject we request the Chief Justices of the High Courts concerned to appoint a Committee of Judges on the administrative side to supervise and monitor progress made by the respective States in regard to the compliance with the above directions and wherever necessary, to issue appropriate directions for a speedy action on the administrative and even on the judicial side in public interest wherever considered necessary."



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28. In this case, as rightly pointed out by the learned Additional Public Prosecutor, even after trial has concluded, the appropriate course for dealing with seized conveyances is through the Drug Disposal Committee, as mandated in the Standing Order. In the absence of a confiscation order under Section 60 of the NDPS Act, and in light of the trial Court's general observation that the vehicle may be released to the "rightful owner," the question of entitlement still remains a factual issue requiring administrative verification, not judicial presumption.

29. This Court notes that Rule 20 provides that the functions of the Drug Disposal Committee includes ordering the disposal of seized items. According to Rule 18, the officer empowered under Section 53 can make an application to the Magistrate and once the same is allowed by the Magistrate, the officer shall preserve the certified inventory, photographs and samples drawn in the presence of the Magistrate as primary evidence for the case and submit details of the seized materials to the Chairman of



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the Drug Disposal Committee for a decision by the Committee on the disposal. The mode of disposal of seized materials has been provided under Rule 23. After such disposal is done, a Certificate of Disposal in Form 10 shall be signed by the Chairman and Members of the Drug Disposal Committee in line with Rule 27.

30. Right to property is no longer a fundamental right but a constitutional right guaranteed under Article 300-A of the Constitution of India. However, it has to be exercised in conformity with constitutional mandates and subject to law. In the context of the NDPS Act, which is a special law enacted to combat drug-related offences and protect public health and safety, the statutory provisions governing seizure, forfeiture, and disposal of property, including vehicles used for illicit transportation, must prevail over individual property claims. Therefore, the petitioner's plea for return of the vehicle under a mere assertion of ownership, without addressing the statutory bar and the procedural mechanism under Section 52-A and the 2022 Rules, cannot be accepted.



WEB COPY 31. In fact, this Court, in *Nahoorkani vs. State* [Crl.RC(MD)No.41 of 2019, dated 16.06.2023], has held as follows:-

“12. Further, the provision under Section 63 of the NDPS Act is clear that the decision regarding confiscation had got to be taken during the trial and not after it and the right of the State to confiscate the conveyance and articles or things seized under this Act is irrespective of the result of the trial. In view of the provision under Section 63 of the Act, the provisions of the Code of Criminal Procedure as contained in Sections 451 and 452 will stand modified to the extent and any claimant to the property will be obliged to satisfy the Court in terms of the exceptions carved out in Sections 60, 61 and 62 of the NDPS Act before he is returned the custody of the vehicle taken into consideration when it was being used for transporting a narcotic substance. Therefore, when the conveyance is seized under the NDPS Act, the return of property does not arise as contemplated under Sections 451 and 452 of Cr.P.C and it is liable to be confiscated under Section 63 of the NDPS Act. The Magistrate may not have jurisdiction to entertain a petition filed under Section 451 of Cr.P.C in the light of the Special Rule made under Section 52A of the Act.

... ..

16. Any person claiming the ownership of the conveyance, he may



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approach the concerned Drug Disposal Committee directly and make his claim. On such application Drug Disposal Committee concerned before taking decision on the disposal of the vehicle, shall grant opportunity of hearing to the parties and pass appropriate orders on the representation made by the party in accordance with law as expeditiously as possible, within a period of 2 months."

32. In view of the foregoing discussions, this Court is of the opinion that though the trial Court's refusal to release the vehicle—on the limited ground that the State intended to prefer an appeal—was not proper, given the fact that no appeal appears to have been filed till date, yet, given the belated nature of the claim, the absence of any judicial determination of ownership, and non-initiation of statutory disposal procedure, this Court finds that the proper course would be to route the matter through the competent Drug Disposal Committee.

33. Since the Investigating Officer has already moved the trial Court for permission to refer the vehicle to the Drug Disposal Committee, by an

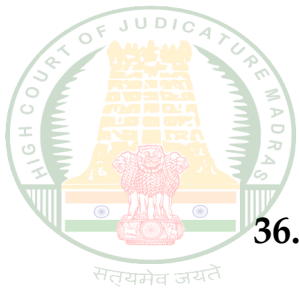


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application dated 18.10.2023, this Court directs the trial Court to dispose of the said application expeditiously and take steps for referral of the vehicle to the Drug Disposal Committee under Rule 18 of the NDPS Rules, 2022.

34. This case underscores a systemic concern regarding the neglect in initiating disposal proceedings under Section 52A. Despite repeated judicial emphasis, particularly by the Hon'ble Supreme Court, the practice of leaving seized vehicles in custody, unattended for years, continues to persist. This undermines the evidentiary chain, invites deterioration of public assets, and burdens the judicial process post-trial.

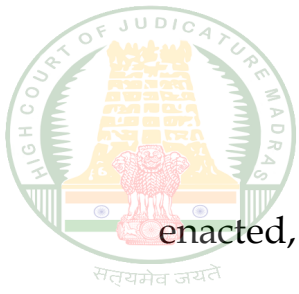
35. This Court notes with concern that in most cases, traffickers do not transfer ownership in the Registration Certificate. As a result, after seizure, no person claims ownership. In *Nahoorkani's* case (supra), it was reported by the State that out of 3730 vehicles seized, 2732 remain unclaimed.



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36. Long retention of seized vehicles and materials contributes to court congestion, storage hazards, and pilferage risk. Judicial directions in *Mohanlal*'s case (supra), among others and administrative standards under the Standing Orders and the 2022 Rules are intended to streamline this process in public interest.

37. This Court is also mindful of the legislative intent behind the incorporation of Section 52A of the NDPS Act, introduced via Act 2 of 1989. Section 63 originally allowed disposal only after trial. However, due to storage-related challenges, Section 52-A was introduced in 1989 for pre-trial disposal, with safeguards such as inventories and certification by Magistrates. In 2014, the term “conveyance” was added to Section 52-A, making vehicles used in drug crimes also eligible for pre-trial disposal. The Statement of Objects and Reasons accompanying the amendment clearly recognized the practical difficulties in storing large quantities of seized narcotic drugs and related articles for long durations. It was to address such administrative and evidentiary challenges that Section 52A was



enacted, so as to permit pre-trial disposal of seized materials after due certification of inventories, photographs and samples by a Magistrate. The statutory design thereby ensures that evidentiary sanctity is preserved while allowing the investigating agencies to relieve themselves of logistical burdens and prevent risks of deterioration, pilferage or misuse of seized property.

38. This intent is reinforced by the Standing Orders issued by the Narcotics Control Bureau, which urges immediate disposal of narcotic drugs and conveyances under Section 52A to avoid risk and misuse. The procedural framework has now been further codified and strengthened under the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, which prescribe specific timelines and steps for pre-trial disposal. The combined object of these provisions is not only evidentiary economy but also prevention of administrative stagnation and corruption in case property management. Pre-trial disposal, therefore, is not merely a statutory option but a legislatively encouraged imperative.

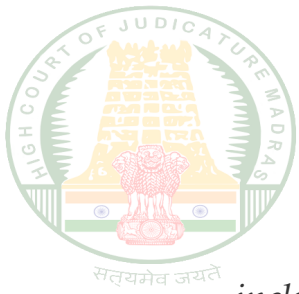


39. This Court finds it imperative to reiterate that systemic lapses in the disposal of seized conveyances and contraband under the NDPS Act remain a recurring concern. Long-term retention of such properties in godowns or open premises has often led to deterioration, theft, or unauthorised usage.

40. In fact, the recently enacted Bharatiya Nagarik Suraksha Sanhita, 2023, under Section 497, provides a clear framework for the disposal of seized property pending trial. The same is extracted as under:-

“497. Order for custody and disposal of property pending trial in certain cases.

(1) When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.



Explanation.---For the purposes of this section, "property" includes---

(a) property of any kind or document which is produced before the Court or which is in its custody;

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

(4) The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter."

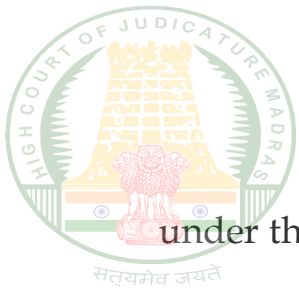


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41. Section 497 BNSS read with Sections 498 to 505 BNSS now provides a comprehensive and time-bound mechanism that must supersede older practices under the CrPC. However, trial Courts continue to mechanically invoke Sections 451 and 457 CrPC, disregarding both the NDPS Act and BNSS mandates. This practice is legally untenable and dilutes the objectives of special legislation.

42. This Court reiterates that indiscriminate invocation of CrPC provisions for interim release undermines the statutory framework under the NDPS Act. Judicial orders that bypass the NDPS Act and 2022 Rules not only defeat legislative intent but also embolden offenders to reclaim vehicles used in crimes.

43. The disposal or release of a seized vehicle is a separate matter from the trial of the accused. Merely because a trial is pending does not prevent the Drug Disposal Committee from proceeding with disposal



under the statute. Claimants must approach the competent authority under the NDPS Act and not seek relief through interim custody applications under CrPC.

44. It is therefore directed that all Investigating Officers, Prosecuting Agencies, and Special Courts handling NDPS cases across the State shall strictly comply with the procedures under Section 52A of the NDPS Act and the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022. Priority must be accorded to pre-trial disposal wherever permissible. Disposal shall be treated as an integral part of case processing, and not as a postscript. Special Courts shall actively monitor compliance and Drug Disposal Committees shall expeditiously process referred properties to prevent administrative delay and loss of evidentiary integrity.

45. The Secretary to Government, Home Department, State of Tamil Nadu and the Registrar General, Madras High Court are expected to issue a comprehensive circular in this regard.



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With the above observations and directions, this criminal appeal stands disposed of.

Internet : Yes
gk

09.07.2025

Note:

Mark a copy of this order to

1.The Secretary to Government,
Home Department,
State of Tamil Nadu,
Secretariat, Chennai.

2.The Registrar General,
Madras High Court.

To

1.The Inspector of Police,
NIB CID, Trichy District.

2.The Judge,
Additional District Court for EC and NDPS Act Cases,
Pudukottai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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09.07.2025