

Crl.R.C.(MD)No.372 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.372 of 2025

State of Tamilnadu rep. by
The Inspector of Police,
NIB CID, Thoothukudi.
(Crime No.18 of 2021)

... Petitioner

Vs.

1.Antony Pitchai

2.Leninston

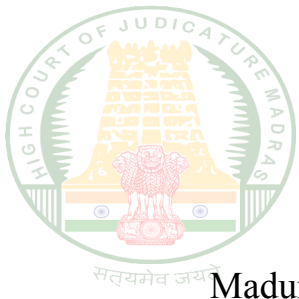
3.Jeyaston

4.Selvaraj

5.Suresh

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the order dated 26.02.2024 made in Crl.M.P.No.4922 of 2023 in C.C.No.331 of 2022 on the file of the Principal District and Sessions Judge, Communal Clash Cases Court,



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Madurai (FAC) and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.S.Ravi
Additional Public Prosecutor

For R3 : Mr.S.Muniyandi

For R5 : Mr.J.Jeyaaron Raja

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.4922 of 2023 in C.C.No.331 of 2022 dated 26.02.2024 on the file of the Communal Clash Cases Court, Madurai, dismissing the petition seeking permission for adducing additional evidence filed under Section 173(5) Cr.P.C.

2. Pending trial, the prosecution has filed a petition seeking permission to produce the information and permission for the alleged raid to the higher official as contemplated under Section 42 of NDPS Act, stating that the same was not produced earlier and was found available in the CD file, that the said document is a vital one and that therefore they were constrained to file the above petition for adducing



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additional evidence. The respondents 3 and 5 have filed counter statement raising objections. The learned Magistrate, after enquiry, has passed the impugned order dismissing the petition.

3. The learned Sessions Judge, by considering the submission made by the learned counsel for the accused that they were served with the copy of the information while furnishing the copies under Section 207 Cr.P.C., and on comparing both the documents, has come to a decision that both are not one and the same, and also by observing that the document sought to be produced is no way strengthen the case of the prosecution, dismissed the petition.

4. The learned Additional Public Prosecutor appearing for the petitioner would submit that information was sent through E-mail but inadvertently they have produced the copy of the information which did not contain the signature of the higher official and the original was retained in the CD file.

5. Whatever it is, even according to the learned Additional Public



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Prosecutor, the recovery was allegedly made near seashore i.e., in open and public place and as such, as per the dictum laid down by the Hon'ble Supreme Court in ***SK Raju @ Abdul Haque @ Jagga Vs. State of West Bengal***, reported in ***AIR 2018 SC 4255***, Section 42 of NDPS Act cannot be made applicable and the relevant passage is extracted hereunder:-

“6. In the instant case, according to the documents on record and the evidence of the witnesses, the search and seizure took place at the airport which is a public place. This being so, it is the provisions of Section 43 of the NDPS Act which would be applicable. Further, as Section 42 of the NDPS Act was not applicable in the present case, the seizure having been effected in a public place, the question of non-compliance, if any, of the provisions of Section 42 of the NDPS Act is wholly irrelevant.”

6. Considering the above, the impugned order, dismissing the petition, though on different footing, cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.



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7. In the result, this Criminal Revision Case stands dismissed. No

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costs.

20.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

Note : Issue order copy on 21.03.2025

To

1. The District and Sessions Judge,
Communal Clash Cases Court,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
CrI.R.C.(MD)No.372 of 2025

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