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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.04.2025

CORAM:

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

CRL MP(MD)Nos.2529, 2647 and 3629 of 2025

in

CRL A(MD)Nos.524, 543 and 347 of 2024

R.Bhuvaneswaran

P.Kumar

P.Aasai

... Petitioner in CrIMP(MD)No.2529 of 2025

... Petitioner in CrIMP(MD)No.2647 of 2025

... Petitioner in CrIMP(MD)No.3629 of 2025

Vs

The State represented by

The Inspector of Police,

NIBCID, Trichy PS,

Trichy District.

(Crime No.3 of 2022)

... Respondent in all three petitions

Prayer: Petitions filed under Section 430(1) of BNSS to suspend the conviction and sentence made in the judgment dated 09.05.2024 in CC.No.221 of 2022 passed by the Special Court for EC and NDPS Act Cases, Pudukottai.

For Petitioner : Mr.NA.Manimaran

in CrIMP(MD)Nos.2529 & 2647 of 2025

: Mr.P.Thanga Prithvi Rajan

in CrIMP(MD)No.3629 of 2025

For Respondent : Mr.T.Senthil Kumar,

Additional Public Prosecutor,

in all three petitions



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COMMON ORDER

The petitioners are accused Nos.A2, A1 and A3 respectively in CC.No.221 of 2022 on the file of the Special Court for EC and NDPS Act Cases, Pudukottai. They have been found guilty and convicted by judgment dated 09.05.2024 as follows:

Rank	For the offence under Section	Punishment	Fine (in Rs)	default class
A2	8(c) r/w 20(b)(ii) (C) of NDPS Act	10 years Rigorous imprisonment	1 lakh	1 year simple imprisonment
	25 r/w 8(c) r/w 20(b)(ii) (C) of NDPS Act	10 years Rigorous imprisonment	1 lakh	1 year simple imprisonment
A1	8(c) r/w 20(b)(ii) (C) of NDPS Act	10 years Rigorous imprisonment	1 lakh	1 year simple imprisonment
A3	29(1) r/w 8(c) r/w 20(b)(ii)(C) of NDPS Act	10 years Rigorous imprisonment	1 lakh	1 year simple imprisonment

As against the conviction, the petitioners have filed criminal appeals in CRL A(MD) Nos.366, 370 and 368 of 2025 respectively and the appeals are admitted by this Court. They have also filed these petitions to suspend the sentence pending the appeals.

2.Since all these cases are arising out of the same judgment, these petitions are taken up together and disposed of by this common order. For sake of convenience the petitioners are referred to as per their ranks before the trial Court.



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3.The learned counsel for the petitioners submits that 23.03.2022 is the date of occurrence, wherein A1 and A2 were arrested as if they were in possession of 22 kgs of ganja. However, this occurrence has been linked with another occurrence said to have taken place at Salem on the next day at 5.00am. The properties in this case were alleged to be produced before the Judicial Magistrate Court No.III, Trichy on 24.03.2022. However the form 91 filed by the respondent Police was returned by the Court. Thereafter form 91 was resubmitted on 06.06.2022 with delay of 89 days and inventory was taken thereafter. The contraband was produced before the trial Court on 17.06.2022 and samples were sent for analysis only on 21.06.2022. Therefore, according to the learned Counsel there is an inordinate delay of 89 days in producing the samples before the Judicial Magistrate Court, Trichy. The learned Counsel have also pointed out that the occurrence at Salem and the occurrence at Trichy have been linked based on the call details, which are said to have been collected by the investigating agency. The investigating agency without ascertaining the mobile phone numbers of the accused projected that the said numbers belong to the accused and produced the call detail records without complying with the requirements of the certificate under Section 65(B) of the Evidence Act. Further the nodal officer has not been examined. The learned Counsel further submit that the petitioners are in jail



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from 23.02.2022 and therefore, he requested to consider these petitions to suspend the sentence imposed on the petitioners pending the appeals.

4.The learned Additional Public Prosecutor appearing for the respondent submits that the mobile phones have been recovered from the accused at the time of recovery of ganja. A1 and A2 were arrested on 23.03.2022 at about 2.30 pm at Trichy by NIBCID, Trichy and on the same day NIBCID, Salem recovered 200 kgs of ganja from A3 and A4. During the course of investigation they collected call details, through which the nexus among all these accused has been established. Therefore, the investigation was proceeded in both cases by the same investigating officer and final reports have been filed as against the accused. According to the learned Additional Public Prosecutor, these accused procured 222 kgs ganja from Andhra Pradesh and transported to Tamil Nadu. At Ulundurpet they divided into two teams and proceeded separately. A1 and A2 were arrested with 22 kgs of ganja and A3 and A4 were arrested with 200 kgs of ganja. The learned Additional Public Prosecutor has also referred to the ExP11 and submits that the certificate under Section 65(B) of the Evidence Act was obtained and the customer application forms for the mobile numbers were also collected, which show the mobile numbers stand in the name of A1 to A3.

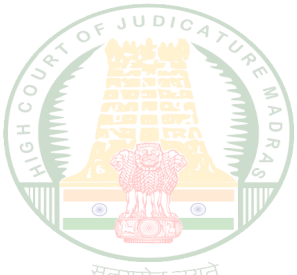


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5. With regard to the delay in the production of the contraband before the Court concerned, the learned Additional Public Prosecutor submits that the contraband was produced immediately before the Judicial Magistrate Court, Trichy. However it has been returned. Thereafter it was re-presented on 06.06.2022. The learned Additional Public Prosecutor by referring to the order of the Hon'ble Supreme Court submits that when the seal of the contraband was in tact, the other materials defects cannot affect the prosecution case. He has also relied on paragraph no.16 of the judgment rendered by the trial court, wherein it has been discussed in detail and rightly answered.

6. This court considered the rival submissions made and perused the materials placed on record.

7. The quantity of ganja involved in this case is 222 kgs. The certificate as required under Section 65 of the Evidence Act has been obtained. The customer application form for mobile numbers have been collected and the mobile numbers stand in the name of the accused and the call details report of the accused shows that there were frequent contacts among the accused prior to the occurrences. All other points raised by the petitioners can only be considered in the appeal. Therefore, this



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Court is not inclined to entertain these applications on the grounds raised by the petitioners. Accordingly these petitions are dismissed.

8. Since this Court is dismissing these petitions, Registry is directed to list the main appeals for final hearing during the 2nd week of June 2025.

sd/-
09/04/2025

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/05/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK

TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE FOR EC AND NDPS ACT CASES,
PUDUKKOTTAI.

2 THE JUDGE,
SPECIAL COURT FOR NDPS ACT CASES,
PUDUKKOTTAI.

3 THE INSPECTOR OF POLICE,
NIBCID TRICHY P.S,
TRICHY DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER
IN
CRL MP(MD)Nos.2529, 2647 and 3629 of 2025
in
CRL A(MD)Nos.524, 543 and 347 of 2024
Date :09/04/2025

SS/SAR- /02/05/2025/ 7P/6C

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