



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.3691 of 2024in Crl.A.(MD)No.258 of 2024

A.Mayapandi @ Goutham,
S/o.Ayyadurai,
1E, South Street,
Santhaipatti, Usilampatti,
Madurai District.

Petitioner(s)

versus

State through
The Intelligence Officer,
NCB -Madurai Sub-Zone,
Madurai.

Respondent(s)

For Petitioner(s):

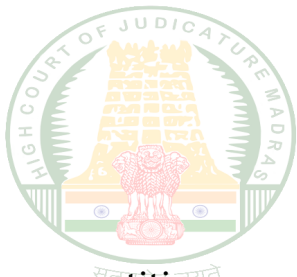
M/s.A.Devaki,
Advocate

For Respondent(s):

Mr.M.Pozhilan,
for Mr.C.Arul Vadivel @ Sekar

ORDER

The petitioner is the 1st accused in C.C.No.77 of 2021 on the file of the learned Additional District and Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai. He was tried along with four other accused for the offence under Sections 8(c) r/w. 20(b)(ii)(C), 27-A, 28 and 29 of NDPS Act 1985. In conclusion of trial, the trial Court, by its Judgment dated 08.01.2024, found the



petitioner guilty for the offence under Sections 8(c) r/w. 20(b)(ii)(C), 27-A, 28 and 29
WEB COPY
(1) of NDPS Act and convicted and sentenced him as under:

(i) for the offence under Section 8(c) r/w. 20(b)(ii)(C) r/w. **29(1)** of NDPS Act, to undergo 14 years rigorous imprisonment and to pay a fine of Rs.1,40,000/-, in default to undergo two years rigorous imprisonment.

(ii) for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act, to undergo 14 years rigorous imprisonment and to pay a fine of Rs.1,40,000/-, in default to undergo two years rigorous imprisonment.

(iii) for the offence under Section 8(c) r/w. **28** r/w. 20(b)(ii)(C) of NDPS Act, to undergo 14 years rigorous imprisonment and to pay a fine of Rs.1,40,000/- in default to undergo two year rigorous imprisonment.

Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.258 of 2024 and the same has been admitted by this Court on 26.03.2024. The petitioner has also moved this petition to suspend the sentence imposed by the trial Court.

2. The learned counsel appearing for the petitioner submits that the contraband was said to have been recovered from a courier office. The contraband has been weighed along with the cover and package to project that it is a huge quantity of ganja. The learned counsel further submits that a request was made by the

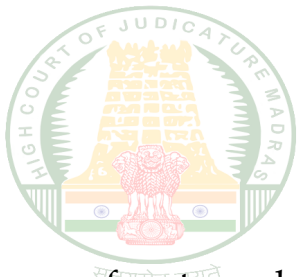


WEB COPY

investigating agency to forward the samples for chemical analysis on 25.03.2021 and the application filed by the Investigating Agency was returned on 26.03.2021. But, according to her, even without representing the said application, samples have been sent for chemical analysis. The learned counsel further submits that the mandatory provisions under Sections 42(i) and 50 of NDPS Act were not complied with. Further, there was a delay in sending the seized samples to the chemical analysis. The learned counsel further submits that the charge sheet was laid on 10.09.2021 and the said date was a holiday (Vinayagar Chaturthi). Therefore, the learned counsel has raised a doubt as to the manner in which the final report was taken on file on a court holiday.

3. Mr.M.Pozhilan, learned counsel, representing the learned Special Public Prosecutor, made his submissions, based on the written objections filed by the respondent, as under:

(i) On 17.03.2021, ten parcels were intercepted and examined at Gatikwe courier office, Trichy and it was found to be Ganja and the L.R.Copy showed the sender address as Rakesh Kumar, Kukatpally, Hyderabad and receiver as one Mayapandi (Accused No.1) of Thondi, Tamil Nadu who is the petitioner herein. The petitioner and one Sasikumar (A2) came to receive the parcels booked in the name of the petitioner. Totally 10 parcels were opened and were found to contain many numbers

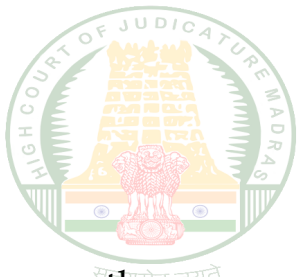


WEB COPY

of rectangular packets and it was found to be 100 in numbers. An entire search and seizure proceedings were drawn at the spot by Mahazar and both of them were summoned by the respondent officers. The investigation revealed that the petitioner got in contact with one Pandi who is A3 in the case and he is indulged in Ganja business. A3 has asked the petitioner to send his identity proof to one Rakhi (absconding accused) and he too sent the same through whatsapp. A3 instructed the petitioner to receive the contraband and handover the same to A2 Sasikumar. When the petitioner and A2 came to receive the contraband, they were intercepted and arrested.

(ii) Since the seizure was held at Courier Office which is intended for use by or for accessible to the public, Section 43 of the NDPS Act will apply and not Section 42 of the NDPS Act. On the other hand, Section 50 of the Act can be pressed into application only in case of recovery contraband from the personal search. In the instance case, the recovery of contraband is elsewhere which is unconnected to body search. Therefore, according to him, the contention of the petitioner that there are no evidence against the petitioner in the instant case is not correct.

(iii) The mobile phone used by the petitioner was recovered and CDR particulars were received and marked as Ex.P.85 and certificate under Section 65B was also obtained. The petitioner herein has called A2 and A3 many times and the



other accused had also called the petitioner several times. This shows that the petitioner has conspired with other accused and involved in the offence. Therefore, all the three accused persons entered into conspiracy to possess and tried to traffic ganja, which was a commercial quantity. Hence, they were rightly punished. The call records that are marked in the evidence shows all the three accused persons were found in communication and it proved the involvement of the petitioner/accused No.1 in the illicit trafficking of contraband of commercial quantity.

4. This Court considered the rival submissions made and perused the materials placed on record.

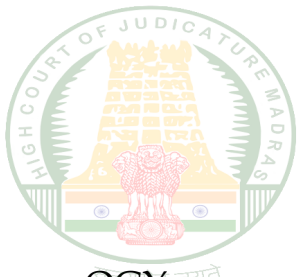
5. The grounds raised by the petitioner can be considered only at the time of final hearing. Considering the objections made by the learned Special Public Prosecutor and the available materials as against the petitioner, this Court is not inclined to suspend the sentence imposed by the trial Court.

6. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
09/04/2025

/ TRUE COPY /

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



OGY जयते
WEB COPY
TO

- 1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE/PRESIDING OFFICER, SPECIAL
COURT FOR EC ACT CASES, PUDUKKOTTAI.
- 2 THE INTELLIGENCE OFFICER
NCB MADURAI SUB ZONE, MADURAI.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.3691 of 2024
in CrI.A.(MD)No.258 of 2024
Date :09/04/2025

SS/SAR- /08/05/2025/ 6P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023