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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 282 of 2021

CNR: {HCMA010617682021}

Case QR

Somu Muthiah

..Appellant(s)

Vs

The State rep. by
The Inspector of Police,
NIBCID, Coimbatore,
(Crime No.202 of 2019)

..Respondent(s)

Prayer: The Criminal Appeal is filed under Section 374 Cr.P.C., to set aside the conviction and sentence passed on the appellant in C.C.No.40 of 2020 by the Special Court under EC Act/NDPS Act, Coimbatore by its Judgment dated 24.03.2021.

For Appellant(s): Mr.S.Jayaprakash

For Respondent(s): Mr.R.Thirumoorthy,
Additional Public Prosecutor

JUDGMENT

The appeal challenges the Judgment passed in CC.No.40 of 2020 holding the appellant guilty of the offences under Section 8(c) r/w 20(b)

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(ii)(C) of the NDPS Act and sentencing him to ten years rigorous imprisonment and to pay a fine of Rs.1,00,000/- and in default, to undergo six months rigorous imprisonment.

2.(i) It is the case of the prosecution that on 24.12.2019 at about 10.15 a.m. PW1 had received secret information that the appellant was carrying the contraband of ganja; that he recorded the secret information in Ex.P1 report; that about 11.00 a.m., he along with PW2/Sub-Inspector of Police, Special Sub-Inspector of Police one Ravichandran and Head Constable one Vijayakumar (both not examined) went to the place stated by the informer, namely, back gate entrance of the Coimbatore Railway Station at about 12.35 p.m; that the informer identified the accused to PW1; that PW1 intercepted the accused, who was found in possession of two green colour bags; that when the police introduced themselves to the appellant, the appellant has stated his name and address; that PW1 apprised the appellant of his rights to be searched by a gazetted officer and that the appellant had stated that he was willing to be searched by PW1 and the other officials; that a consent letter (marked as Ex.P2) was obtained from the accused; that thereafter, PW1 searched the bags

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brought by the appellant and since it smelt of ganja, he weighed the contraband and drew two samples, each containing 50 grams, from the first bag (marked as A1 and A2) and drew two samples, each containing 50 grams, from the second bag (marked as B1 and B2) and seized the contraband in seizure mahazar Ex.P3. He further had sent the contraband for chemical analysis.

(ii) PW1 thereafter, arrested the appellant at 15.30 hours and recorded his confession and registered the FIR (Ex.P4). He had sent the detailed report (Ex.P5) to PW4, the Deputy Superintendent of Police and the Investigation Officer. PW4 after examining the witnesses and obtaining the medical analysis report, filed the final report against the appellant for the offence under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act. The trial Court framed charges under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act and when questioned, the accused pleaded 'not guilty'.

(iii) The prosecution examined four witnesses and marked Ex.P1 to P9. When the appellant was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same.

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The appellant had marked Ex.D1, which is the history of the case, sent by the Investigation Officer to the trial Court.

(iv) The trial Court believed the evidence of the witnesses examined by the prosecution and held the petitioner guilty of the offences under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced him as stated above.

3.Heard Mr.S.Jayaprakash, the learned counsel appearing for the appellant/accused, and Mr.R.Thirumoorthy, learned Additional Public Prosecutor appearing for the respondent/State.

4.The learned counsel for the appellant would submit that there are several contradictions in the evidence of PW1 and PW4 as to how the information was given to PW4; that PW1 had stated that he had prepared Ex.P1 by himself; that the said statement is false, since his signature and the contents are in two different inks; that PW2 had stated that the contents of Ex.P1 was written by one Ravichandran (not-examined); that the case history submitted by PW4 to the trial Court marked as Ex.D1

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would show that the occurrence did not take place at the place alleged by the prosecution; that the records were prepared at the police station; and therefore, in view of the infirmities, prayed for acquittal.

5.The learned Additional Public Prosecutor *per contra* submitted that the evidence of PW1 and the other witnesses are cogent and convincing and the minor contradictions in their evidence would not make the prosecution case unreliable; that the appellant is a habitual offender and even after this case was registered, he was involved in two other cases; and therefore, the impugned Judgment does not call for any interference.

6.As stated above, PW1 is the witness who had received the secret information and conducted the search and seizure along with one Ravichandran and PW2. PW2 is the Sub-Inspector of Police, who had accompanied PW1 during the search. PW3 is the expert who had analysed the contraband and opined that it contained ganja in his report Ex.P7. PW4 is the Deputy Superintendent of Police and the Investigation Officer.

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7.It is the case of PW1 that he had received the secret information and recorded the said secret information in his report Ex.P1. He had admitted in the cross-examination that the contents of the report and the signature are in two different inks. He would further explain that by stating that he had written the contents in one ink and signed in another ink. This is contradicted by PW2, who would state that Ex.P1 was prepared by one Ravichandran. Therefore, the version of PW1 that he prepared Ex.P1 is doubtful. That apart, PW1 would state that after receiving the secret information, he had gone to PW4 directly and obtained his permission. PW4 however, would state that he was not available at the police station at the relevant point of time and that PW1 had informed him over phone about the arrest on secret information and had obtained his permission. In fact, in Ex.P4, the first information report, it is stated that PW1 had obtained permission from PW4 over phone. This is contrary to the endorsement made by PW4 in Ex.P1, where he had stated “permitted” on 24.12.2019 at about 10.30 hours. Therefore, the witnesses have contradicted themselves on these material aspects. Above all, it is seen that PW4 had admitted that he had sent Ex.D1, which is the

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case history, to the trial Court. In Ex.D1, it is stated that the appellant was apprehended in a junction in Erode District. When this was put to PW4, he admitted having stated so in Ex.D1. He had not explained the reason for the discrepancy.

8.That apart, it is seen that no independent witnesses were examined by the prosecution and in fact, two other police officers Ravichandran and Vijayakumar, who are said to have accompanied PW1, also have not been examined. Therefore, this Court is of the view, in the light of the contradictions in the evidence of PW1 and PW4 in the material aspects and in the light of PW4's admission that he had submitted DW1 to the Court, wherein it was stated that the appellant was apprehended in a different place, this Court is of the view that the seizure is doubtful and consequently, the impugned Judgment holding the appellant guilty of the offences under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act, is liable to be set aside.

9.In the result, this Criminal Appeal is allowed, and the appellant is acquitted of the charges under Section 8(c) r/w 20(b)(ii)(C) of the NDPS

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Act. The conviction and sentence passed in C.C.No.40/2020 on the file of the learned Special Court under EC Act/NDPS Act, Coimbatore dated 24.03.2021 is set aside. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

18-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG

To

1.The Inspector of Police,
NIBCID, Coimbatore,
(Crime No.202 of 2019).

2.The Special Court under EC Act/
NDPS Act, Coimbatore.

3.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

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