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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 29993 of 2026

CNR:{HCMA012430992026}

AND CRL MP Nos.19983 & 19984 OF 2026

E.Ezhilarasan
Advocate,
No.164, Kalliyangadu Street,
Fire Service Back Side,
Erode District.
(Cause title as found in the Charge Sheet)

..Petitioner(s)

Vs

1. The State Rep. by,
   The Inspector of Police,
   Erode South Police Station,
   Erode District.
   Ref.Crime No.223 of 2021.

2. The Sub Inspector of Police,
   Erode South Police Station,
   Erode District.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, praying to call for the records and quash the Charge Sheet in CC.No.37 of 2025 on the file of the Additional District Judge, Special Court for Trail of Cases under the EC Act, Coimbatore and thus render justice.

For Petitioner(s): Mr.C.Arun Kumar

For Respondent(s): Mr.R.Ganesh Kumar
Additional Public Prosecutor

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This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.37 of 2025, pending on the file of the learned Additional District Judge, Special Court for Trial of Cases under the EC Act, Coimbatore.

2.Based on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No. 223 of 2021 for the offences punishable under Sections 8(c), 20(b), 2(b) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3.The case of the prosecution is that, on 01.06.2021, at about 14.00 hours, the second respondent received credible information from a reliable source that a male person, aged about 45 years, would be transporting ganja to a place near the Fire Station on Gandhiji Road, Erode. After complying with the necessary formalities, the second respondent, along with his team, proceeded to the spot and noticed a person standing there, allegedly attempting to sell ganja. On seeing the police party, the said person attempted to conceal a plastic cover and flee from the spot. However, the second respondent and his team intercepted and questioned him. During the initial enquiry, he gave inconsistent answers to the questions put to him. Upon further enquiry, he disclosed his name as Parthiban and admitted that he was in possession of ganja for the purpose of

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sale. Thereafter, he was arrested and remanded to judicial custody. Upon completion of the investigation, the respondent police filed the final report, which was taken cognizance of by the trial Court in C.C. No. 37 of 2025. During the course of the investigation, the respondent police recorded the confession statements of the accused, examined the witnesses, collected documents and seized material objects in support of the prosecution case. The further case of the prosecution is that A2 to A6 had supplied ganja to A1 and A9 to A14 for the purpose of sale. The petitioner herein is arrayed as A4 and has been implicated solely on the basis of the confession statement of A1, wherein it is alleged that the petitioner had supplied ganja for sale. To substantiate the allegation against the petitioner, the respondents rely exclusively upon the confession statement of A1, recorded after his arrest. Except for the said statement, there is no other material available on record to connect the petitioner with the alleged offence. Further, no narcotic substance has been recovered either from the petitioner or from his office. Therefore, in the absence of any independent material connecting the petitioner with the alleged crime, no case is made out against him.

4.It is a settled proposition of law that the confession of a co-accused cannot, by itself, be treated as substantive evidence against another co-accused. At best, such a confession can only be taken into consideration to lend assurance to other evidence available on record. In criminal proceedings, where

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there is no independent evidence connecting an accused with the alleged offence, the prosecution cannot rely solely upon the confession of a co-accused to establish his guilt. The presumption of innocence, which forms the foundation of criminal jurisprudence, enures to the benefit of the accused, and any reasonable doubt must necessarily be resolved in his favour.

5.In the present case, except for the confession statement of the co-accused, there is no other material available on record to connect the petitioner (A4) with the alleged offence. In such circumstances, the proceedings against the petitioner cannot be permitted to continue. However, the trial Court has taken cognizance of the offence against the petitioner and issued summons. On perusal of the order taking cognizance, it is evident that the trial Court, without independently scrutinising or considering the materials available against the fourth accused, has mechanically taken cognizance of the offence. This clearly demonstrates non-application of judicial mind, as the trial Court has proceeded against the petitioner in a routine manner, without independently satisfying itself as to whether sufficient grounds existed to proceed against him.

6.In this regard, it is relevant to refer to the judgment of the Hon'ble Supreme Court of India in ***Karan Talwar v. State of Tamil Nadu*****,** reported in ***2024 INSC 1012,*** wherein the Hon'ble Supreme Court held as follows:

"12. As noted hereinbefore, the sole material available against the

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appellant is the confession statement of the co-accused viz., accused No.1, which undoubtedly cannot translate into admissible evidence at the stage of trial and against the appellant. When that be the position, how can it be said that a prima facie case is made out to make the appellant to stand the trial. There can be no doubt with respect to the position that standing the trial is an ordeal and, therefore, in a case where there is no material at all which could be translated into evidence at the trial stage it would be a miscarriage of justice to make the person concerned to stand the trial.

7.Thus, it is clear that an accused cannot be convicted solely on the basis of the confession statement of a co-accused. More particularly, where no recovery has been effected pursuant to such a confession statement and there is no independent material connecting the accused with the alleged offence, the said statement cannot form the basis for implicating the accused. In the present case also, the alleged confession statement of the co-accused, in the absence of any corroborative material, cannot be treated as substantive evidence against the petitioner. Further, in the absence of any legally admissible material capable of connecting the petitioner with the alleged occurrence, the said confession statement cannot be translated into substantive evidence against him at the stage of trial.

8.In this regard, the Hon'ble Supreme Court, in ***Pepsi Foods & Anr. v. Special Magistrate & Ors.,*** reported in ***1998 SCC (Cri) 1400***, has held that

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summoning an accused in a criminal case is a serious matter and that criminal law cannot be set into motion as a matter of course. The order taking cognizance and issuing summons must reflect the application of judicial mind to the facts of the case and the law applicable thereto.

9.Thus, it is clear that the trial Court ought to have carefully scrutinised the materials available on record and independently assessed whether a prima facie case was made out against the petitioner before issuing summons. In view of the foregoing discussion, the proceedings against the fourth accused cannot be sustained and are liable to be quashed.

10.Accordingly, this Criminal Original Petition stands allowed. In view of the same, the proceedings in C.C.No.37 of 2025, pending on the file of the learned Additional District Judge, Special Court for Trial of Cases under the EC Act, Coimbatore, is hereby quashed insofar as petitioner alone. Consequently, the connected Miscellaneous Petitions are closed.

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

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To

1.The Additional District Judge,
Special Court for Trial of Cases
under the EC Act, Coimbatore.

2.The Inspector of Police,
Erode South Police Station,
Erode District.

3.The Sub Inspector of Police,
Erode South Police Station,
Erode District.

4.The Public Prosecutor,
High Court,
Madras.

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