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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. 31307 of 2026

CNR:{HCMA012444522026}

and

CRL MP No. 20782 of 2026

Karthikeyan
S/o Chinnasamy,
Residing at No.29, Kothukkarar Street,
Thasampudur, Nallampatti,
Erode District.

..Petitioner(s)

Vs

1. State represented by the Inspector of Police
   Kanjikoil Police Station,
   Erode District.
   Crime No.213 of 2024
2. Velumani M
   Sub Inspector of Police,
   Kanjikoil Police Station.

..Respondent(s)

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 praying to call for the entire records pursuant to the C.C.No.96 of 2026 pending on the file of the learned Additional District and Special Court for trial of cases under the EC Act at Coimbatore and quash the same by allowing this Criminal Original Petition.

For Petitioner(s): S.Muralidaran
For Respondent(s): Mr.R.Ganesh Kumar
Additional Public Prosecutor for R1 & R2

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ORDER

This petition has been filed to quash the proceedings in C.C No. 96 of 2026 pending on the file of the learned Additional District and Special Court for trial of cases under the EC Act, Coimbatore, thereby taken cognizance for the offences under Sections 8(C),w 20(b) (ii) (B) & 25 of NDPS Act.

2.The case of the prosecution is that on 23.10.2024, the respondent police officials, while allegedly conducting routine vehicle checks near Kanjikoil-Perundurai Road, intercepted a two wheeler bearing Registration No.TN 18 BM 3277, in which Accused Nos.1 and 2 were travelling. It is further alleged that upon interception, the conduct of the accused persons aroused suspicion. On enquiry, the second accused is said to have admitted that he was in possession of a prohibited substance, namely ganja, which he was allegedly carrying in a plastic cover. Thereafter, the police officials are stated to have conducted a search and allegedly recovered approximately 1 kilogram and 30 grams of ganja from the possession of the second accused. The prosecution further alleges that, subsequent to the said recovery, the police recorded the so-called confession statements of Accused Nos.1 and 2, wherein they disclosed that the contraband was supplied by one “Maatu Karthi”, namely, the petitioner herein, and that they were transporting the same for delivery to an unknown person. Subsequently, the first respondent registered an FIR for the offences punishable under Sections 8(C) r/w 20(b) (ii) (B) & 25 of NDPS Act and the petitioner was

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arrayed as third accused in this case. After completion of the investigation, the respondent police filed a final report and the same was taken cognizance by the trial Court.

3.On a perusal of the entire records, it revealed that, when the respondent police proceeded to the scene of occurrence, where only two accused, namely A1 and A2, were found. After recovering the contraband, the respondent police recorded the confession statements of the accused A1 and A2. On the basis of the confession statements, A3 was implicated as an accused on the ground that the contraband was supplied by the petitioner/third accused. Except for the said confession statements, no other material has been produced by the prosecution to implicate A3 in this case.

4.A perusal of the entire records, including the FIR, seizure mahazar, statements of witnesses and the final report, would clearly demonstrate that, even if the entire case of the prosecution case is taken at its face value and accepted in its entirety, the same does not disclose the commission of any offence against the third accused. The materials collected during the course of investigation do not constitute any legally admissible or incriminating evidence connecting the petitioner/third accused with the alleged contraband recovered from A1 and A2. Therefore, the third accused has been implicated solely on the basis of the confession statements of A1 and A2. Further, there are no

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allegations or materials to establish the conscious possession, knowledge, participation, or any nexus between the petitioner/third accused and the alleged contraband.

5. Furthermore, the confession statement of a co-accused cannot form the basis of the prosecution in the absence of any legally admissible material. The alleged confession statement of the co-accused recorded by the police is hit by Section 23 of the BSA, corresponding to Section 25 of the Indian Evidence Act, 1872, and is inadmissible in view of the law laid down by the Honourable Supreme Court of India in ***Tofan Singh Vs. State of Tamil Nadu***, reported in ***(2021) 4 SCC 1***, wherein it was held that the officers invested with powers under Section 53 of the NDPS Act are "police officers" within the meaning of Section 25 of the Indian Evidence Act and that a confessional statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement against an accused in the trial of an offence under the NDPS Act. Consequently, in the present case also, the alleged confession statement of the co-accused cannot be constituted as legally admissible evidence against the petitioner. Equally, the confession statement of the co-accused also cannot be translated into admissible evidence at the stage of trial. Therefore, the continuation of criminal proceedings against the third accused is unsustainable in law and amounts to an abuse of process of law. Hence, on this ground alone, the impugned proceedings is liable to be quashed insofar as the third accused is

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concerned.

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6.Accordingly, the proceedings in C.C No. 96 of 2026 pending on the file of the learned Additional District and Special Court for trial of cases under the EC Act, Coimbatore, is hereby quashed against the petitioner/third accused alone is concerned, and the Criminal Original Petition stands allowed. The trial Court is directed to proceed with the trial against the other accused, namely, A1 and A2, in accordance with law. Consequently, connected miscellaneous petition is closed.

29-10-2026

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

Uma
To

1. The Additional District and Special Court for trial of cases under the EC Act, Coimbatore

2. The Inspector of Police
   Kanjikoil Police Station,
   Erode District.
   Crime No.213 of 2024

3. Velumani M
   Sub Inspector of Police,
   Kanjikoil Police Station

4. The Public Prosecutor
   High Court of Madras.

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