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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30-09-2026

PRONOUNCED ON : 11-11-2026

CORAM

THE HON'BLE MR.JUSTICE S.KARTHIKEYAN

CRL A(MD) No. 921 of 2024
CNR:{HCMD011153382024}

and

CRL A(MD) No. 914 of 2025
CNR:{HCMD010989892025}

and

CRL MP(MD) Nos. 20307 and 20346 of 2026

CRL A(MD) No. 921 of 2024

P.Rajkumar
S/o. Palpandi
Anpu Apartment
Ellisnagar
Madurai City
at present confined in Central Prison Madurai as
Convict Prisoner

..Appellant

Vs

State of Tamil Nadu,
Rep. by The Inspector of Police,
S.S. Colony PS,
Madurai City,
Crime No. 229 of 2023.

..Respondent

PRAYER: This Criminal Appeal is filed under Section 415 of BNSS praying to call for the records, set aside the conviction and sentence passed by judgment dated 05.09.2024 in C.C.No.782 of 2023 of I Additional Special Court for EC and NDPS Act Cases, Madurai and acquit the appellant herein of all the charges.

For Appellant : Mr. V. Kathirvelu
Senior Advocate
for Na.Manimaran

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For Respondent : Mr.A.Robinson
Government Advocate (Crl. Side)

CRL A(MD) No. 914 of 2025

P.JK @ Jeyakumar
S/o. Pandiyan, Door No. 17, Sankar Nagar 1st Street
K.Pudur, Madurai District.
At present confined in Central Prison, Madurai,
as Convict Prisoner.

..Appellant

Vs

State of Tamil Nadu,
Rep. by The Inspector of Police,
S.S. Colony PS,
Madurai City,
Crime No. 229 of 2023.

..Respondent

PRAYER: This Criminal Appeal is filed under Section 415 of BNSS praying to call for the records and set aside the conviction and sentence passed by judgment dated 05.09.2024 in C.C.No.782 of 2023 of I Additional Special Court for EC and NDPS Act Cases, Madurai and acquit the appellant herein of all the charges.

For Appellant : Mr. M.Jagadeesh Pandian
for Na.Manimaran

For Respondent : Mr.A.Robinson
Government Advocate (Crl. Side)

COMMON JUDGMENT

These appeals are directed against the judgment of conviction recorded by the I Additional Special Court for EC and NDPS Act Cases, Madurai, in C.C. No.782 of 2023, dated 05.09.2024.

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2. On a careful perusal of records, it is found that on 15.02.2023 at around 11.30 hours P.W-6 Thiru.Boominathan had received a secret information which he recorded vide Ex.P-8 and informed it to P.W-5 Ravindraprakash, the Assistant Commissioner of Police, Thideer Nagar L & O Police Station and got the permission, endorsed on it from him to go on raid. Thereafter, he left the police station along with P.W-1 Sub Inspector - Alagumuthu, P.W-2 Nagasundar - Head Constable and Ganesh Prabhu – Grade-I P.C, Ashok Kumar, Prabakaran, Varisai Mohammed and Santhosh Kumar with necessary equipments along with the informant to Madurai-Kochadai Melakkal Main Road.

3. On the way to Angala Eswari Nagar near MLM Sudharsan Apartment, they intercepted an Eicher vehicle identified by the informant and found that there were four persons, who were sitting in that vehicle in the front cabin. Out of the four persons, two were jumped and escaped from there. The raiding team rounded up the Eicher load vehicle and interrogated the inmates of the vehicle. They introduced themselves as Senthil Prabhu (A-2) and Prabhakaran (A-1). They further revealed that the names of the absconded co-Accused is A-3 Rajkumar and A-4 Jayakumar. P.W-6 informed them that they got secret information that they are smuggling ganja in the vehicle bearing Registration No.TN-38-CU-1362 and therefore, wanted to search them and they have got

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every right to be searched in the presence of a Gazetted Officer or Judicial Magistrate. But, they declined the offer and informed the police that they themselves can search them. In this connection, P.W-6 has prepared Ex.P-1 Search Consent Letter for A-1 and Ex.P-2 Search Consent Letter for A-2. Thereafter, they found that there were 24 white coloured polythene gunny bags in the Eicher vehicle, which contains ganja weighing 951 Kgs. They arrested A-1 and A-2 at the spot in the presence of the witnesses. They were served with arrest intimation letter and obtained the signature of A-1 and A-2.

4. P.W-6 interrogated the first Accused in the presence of Village Administrative Officer, Kochadai, P.W-3 Mr.Kameshwaran and Village Assistant Mr.P.Udhayakumar and first Accused volunteered to give a confession which he recorded and obtained the signature of the first Accused and the signature of the witnesses. He recovered 24 gunny bags and a cell phone used for smuggling the ganja. Thereafter, he recorded the confession of A-2 in the presence of the same witnesses and A-2 has produced the Eicher vehicle bearing Registration No.TN-38-CU-1362 and a cell phone which was used for smuggling ganja.

5. The 24 white coloured polythene gunny bags contains 475 packets of ganja separately with a total weight of 951 Kgs. They spread a tarpaulin, opened the above packets and put the ganja in it, mixed well and then had taken two samples each weighing 100 grams and packed it in khaki cover, tied and affixed

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the SHO seal and pasted the details slip and identified them as S-1 and S-2. They were marked as MO-1 and MO-2. The signatures of the witnesses and Accused were obtained in the samples. The remaining 850.800 kilograms of ganja was packed in 15 white coloured polythene gunny bags, each weighing 60 kilograms of ganja and the remaining 50.800 kilograms of ganja was packed in another bag and tied to them all and affixed the SHO seal and pasted a slip and obtained the signature of the Accused and witnesses identified them as Ex.P-1 to Ex.P-16. The 475 khaki coloured polythene cover were marked as C1 to C475. The 24 numbers of white coloured polythene gunny bags were identified and marked as Ex.D-1 to Ex.D-24. Then they returned to the police station along with the Accused and seized goods and registered Ex.P-12 First Information Report in Crime No.229/2023 as against four Accused for the offences punishable under Section 8(c) r/w 20(b)(ii)(C), 29(1) and 25 of the NDPS Act.

6. Thereafter, PW-6 has prepared Ex.P-9 detailed report under Section 57 of the NDPS Act and submitted to the Assistant Commissioner of Police for perusal. Then he went to the place of occurrence and prepared Ex.P-7 Observation Mahazar and Ex.P-13 Rough Sketch in the presence of witnesses P.W-4 Alagumalai and Murugan. Thereafter, the Investigation Officer has examined the witnesses and recorded their statements. The seized goods were forwarded to the Court vide Ex.P-14 Form-91 and the Accused were forwarded

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to judicial custody. The seized articles were received by the Court on 20.02.2023 *vide* RPR No.125/2023.

7. Thereafter, he sent Ex.P-15 requisition to the Court to send the sample ganja for chemical examination. The Court vide Ex.P-16 forwarded the same samples for chemical analysis to the Forensic Science Laboratory. Ex.P-17 Chemical Examiner's report reveals that the samples are cannabinoids and they are ganja. He examined Ms.Vidyarani, Chemical Examiner and recorded her statement and examined the Head Clerk Gurusamy and Grade-I Constable Chellapandi and recorded their statements.

8. On 13.03.2023, P.W-6 filed an application before the Principal Sessions Court, under Section 52A of the NDPS Act. As per the said order, the goods were weighed and samples of 100 grams each were taken again from the 16 bags in the presence of Judicial Magistrate No.V and photographs were also taken. Thereafter, he went in search of the absconded Accused Jayakumar (A-4) and Rajkumar (A-3). P.W-6 came to know that the absconded Accused Rajkumar was arrested on 09-05-2023 by Keeraithurai Police. He was in judicial custody in a case registered by them in Crime No.374/2023 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 29(1) and 25 of the NDPS Act. Therefore, on 31.05.2023, P.W-6 formally arrested the Accused Rajkumar and gave a requisition under Section 167(3) of Cr.P.C to take him under police custody.

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9. On 07.06.2023, he had taken him in his custody for one day as per the order of the Special Court for EC and NDPS Act Cases from 07.06.2023 4 p.m. to 08.06.2023 4 p.m. He interrogated Accused Rajkumar and recorded his Ex.P-19 statement. Thereafter, he came to know that A-4 Jayakumar was arrested on 12.06.2023 by Keeraithurai Police and was remanded in case in Crime No.374/2023 and was in judicial custody. Therefore, on 19.06.2023 he formally arrested A-4 and on 28.06.2023, he gave requisition under Section 167(3) of Cr.P.C., seeking for his custody. On 30.03.2023, he was given custody between 30.06.2023 at 17 hours and 01.07.2023 at 17 hours. On 01.07.2023 he interrogated A-4 and recorded his statement *vide* Ex.P-20. On 02.07.2023, he examined P.W-5, Assistant Commissioner of Police and recorded the statement. After completing investigation, he laid final report before the Special Court for EC and NDPS Act Cases, Madurai.

10. The Special Court has taken cognizance of the said final report in C.C.No. 782 of 2023. On appearance of the Accused, copies of documents relied on by the prosecution were furnished to them under Section 207 Cr.P.C. Thereafter, the trial Court has framed the charges against the Accused for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 29(1) and 25 of the NDPS Act. The charges were explained to all the Accused and the Accused denied the said charges. Therefore, they are tried by the trial court.

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11. On the side of the prosecution, PW-1 to PW-6 were examined, Ex.P-1 to Ex.P-20 were marked and MO-1 to MO-8 were also marked. Upon closure of the prosecution side evidence, the incriminating materials appeared in the evidence were put to the Accused under Section 313(1)(b) Cr.P.C. which they denied as false. Though they claimed that they have witnesses to be examined on their side, they have not examined any witnesses and therefore, the defence side evidence was also closed.

12. After hearing both sides, the trial Court has found A-1 to A-4 guilty of the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced them to undergo 20 years rigorous imprisonment with a fine of Rs.1,00,000/-, in default, to undergo simple imprisonment for a further period of three years. However, the trial Court has found the appellants not guilty of the offence punishable under Sections 25 and 29(1) of NDPS Act and acquitted them from the said charges.

13. Aggrieved by the said judgment of conviction and sentence, A-3 has presented the appeal in Crl. A. (MD) No.921 of 2024 and A-4 has presented the Crl. A. (MD) No.914 of 2025. The Accused A-1 and A-2 have not preferred any appeal challenging their conviction. Similarly, the State has not preferred any appeal as against the order of acquittal passed against the Accused for the offences punishable under Sections 25 and 29(1) of the NDPS Act.

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14. Since these two appeals arose from the same judgement, this Court is inclined to take up the said appeals together and disposed of by way of this common judgment. For the sake of convenience, the parties herein are referred to as per their ranking before the trial court.

15. In these appeals, the learned Senior Counsel/learned Counsel appearing for appellants were heard. The learned Government Advocate (Criminal Side) was heard for the State. The trial Court records are called for and perused.

16. Point of consideration:

Whether the conviction recorded by the trial Court as against the appellants/A-3 and A-4 is sustainable?

Answer:

17. On a careful perusal of records, it is found that it is the case of the prosecution that on 15.02.2023 at about 11.30 hours on getting secret information, the respondent police have gone to the place of occurrence i.e,. near Kochadi Main Road, Angala Eswari Nagar near MLM Sudharsan Apartment and at about 12.15 hours, intercepted an Eicher lorry bearing Registration No.TN-38-CU-1362 and on seeing the police, out of the four persons travelled in the cabin, two persons escaped and two were nabbed and on search, they were found in possession of 951 kgs of ganja and therefore, the action of the appellant and the other co-Accused is punishable under Sections

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8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the NDPS Act. To substantiate the said case, the prosecution has examined P.W-1 to P.W-6 and marked Ex.P-1 to Ex.P-20 and MO-1 to MO-8 were also marked.

18. The first and foremost contention of the learned counsel for the appellants is that as per the case of the prosecution, the appellants herein have escaped from the scene of crime and therefore, the entire recovery of 951 kgs of ganja were shown as against Accused 1 and 2. They have not preferred any appeal as against their conviction. Only based on the confession of co-Accused A-1 and A-2, the appellants were implicated in the present case. Except the co-Accused confession, nothing is available on record to implicate the appellants herein. Though the charges were framed under Sections 25 and 29 of NDPS Act, the appellants were acquitted from the said charges and no appeal was preferred by the State. There was a delay in registration of FIR and no independent witnesses to prove the prosecution case. Therefore, the learned counsels the appellants prays for the acquittal.

19. The learned counsel for the appellants relied on the decision of the Hon'ble Apex Court in ***Surinder Kumar Khanna vs. Intelligence Officer, Directorate of Revenue Intelligence*** reported in ***CDJ 2018 SC 789*** to say that apart from the statement of co-Accused there is no material suggesting involvement of the appellant in crime in question. Therefore, in the absence of any substantive evidence, it would be inappropriate to base conviction of

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appellant purely on statements of co-Accused. Further, the learned counsel for the appellants relied on the decision of the Honourable Apex Court in ***Mohammed Fasrin v. State rep. By the Intelligence Officer,*** reported in ***CDJ 2019 SC 1560*** wherein the Honourable Apex Court relied on a decision of the Larger Bench of the Apex Court in ***Tofan Singh vs. State of Tamil Nadu*** reported in ***(2013) 16 SCC 31*** held that a statement recorded under Section 67 of the NDPS Act can be considered as a confessional statement even if the said statement was recorded by an officer not to be treated as a Police Officer. The Hon'ble Apex Court held that the confession, especially when it was recorded while the Accused is in custody, is a weak piece of evidence and there must be some corroborative evidence. In the absence of corroborative evidence, the confession by itself cannot be basis for conviction.

20. Per contra, the learned Government Advocate (Criminal Side) appearing for the State submitted that on 15.02.2023 at about 11.30 hours on getting secret information, the respondent police have gone to the place of occurrence i.e,. near Kochadi Main Road, Angala Eswari Nagar near MLM Sudharsan Apartment and at about 12.15 hours, intercepted an Eicher lorry bearing Registration No.TN-38-CU-1362 and on seeing the police, out of the four persons travelled in the cabin, two persons escaped and two were nabbed and on search, they were found in possession of 951 kgs of ganja and therefore, the actions of the appellant and the other co-Accused is punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the NDPS Act. To substantiate

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the said case, the prosecution has examined PW-1 to PW-6 and marked Ex.P1 to Ex.P-20 and MO-1 to MO-8 were also marked.

21. The learned Government Advocate (Criminal Side) further submitted that after hearing both sides, the trial Court has found A-1 to A-4 guilty of the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced them to undergo 20 years rigorous imprisonment with a fine of Rs.1,00,000/-, in default, to undergo simple imprisonment for a further period of three years. However, the trial Court has found the appellants not guilty of the offence punishable under Sections 25 and 29(1) of NDPS Act and acquitted them from the said charges. The judgment of the trial Court has no infirmity and the same has to be confirmed and these appeals have to be dismissed.

22. According to the learned Government Advocate (Criminal Side) appearing for the State, the prosecution witnesses have clearly deposed the manner in which the offence was committed and the complicity of the appellants herein. He further contended that P.W-6 on getting Ex.P-8 secret information, reported the same to his higher official, P.W-5, and got the permission endorsed on it from him to go on raid and thereby he complied with the provisions of Section 42 of the NDPS Act. Further, they have proceeded to the scene of occurrence along with the informant and intercepted MO-8 Eicher Lorry bearing Registration No.TN-38-CU-1362 in which four persons were travelled in the cabin. On seeing the police, two of them had fled away from the

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scene of crime and the remaining two were apprehended. The raiding party had informed about their right to be searched in the presence of a Gazetted Officer or Judicial Magistrate as required under Section 50 of NDPS Act and obtained Ex.P-2 and Ex.P-3 Search consent letter wherein A-1 and A-2 have agreed to be searched by the police officers themselves. The search revealed that A1 and A2 were found in possession of 951 kgs of ganja in 24 white coloured polythene gunny bags. They were seized under the cover of mahazar and forwarded to the Court after drawn up sample MO-1 and MO-2 in the presence of the witnesses. The samples were sent to the Forensic Science Laboratory for chemical analysis report which reveals that the contraband is ganja. The police arrested A-1 and A-2 and from the voluntary confession statement of the Accused A-1 and A-2 were found the involvement of -3 and A-4. The presence of A-3 and A-4 were spoken to by the raiding party and the witnesses to the raid.

23. Therefore, according to the learned Government Advocate (Criminal Side), the confession of a co-Accused is relevant under Section 30 of the Evidence Act which is corroborated by the other eyewitnesses. The learned Government Advocate (Criminal Side) contended that the prosecution has proved the involvement of the appellants herein beyond all reasonable doubts. The learned Government Advocate (Criminal Side) relied on the decision of the Honourable Apex Court in ***Haricharan Kurmi vs. State of Bihar*** reported in ***AIR 1964 SC 1184.***

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24. This court has given its thoughtful consideration to the rival submissions put forth by either side. On a careful perusal of records, it is found that it is the case of the prosecution that on 15.02.2023 at about 11.30 hours on getting secret information, the respondent police have gone to the place of occurrence i.e,. near Kochadi Main Road, Angala Eswari Nagar near MLM Sudharsan Apartment and at about 12.15 hours, intercepted an Eicher lorry bearing Registration No.TN-38-CU-1362 and on seeing the police, out of the four persons travelled in the cabin, two persons escaped and two were nabbed and on search, they were found in possession of 951 kgs of ganja and therefore, the actions of the appellant and the other co-Accused is punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the NDPS Act. To substantiate the said case, the prosecution has examined P.W-1 to P.W-6 and marked Ex.P-1 to Ex.P-20 and MO-1 to MO-8 were also marked.

25. It is the admitted case of the prosecution that these appellants A-3 and A-4 have fled away from the scene of crime at the time of the apprehension itself. The learned Government Advocate (Criminal Side) has contended that in Ex.P-8 secret information, the names of the A-3 and A-4 were recorded. Further, P.W-1, P.W-2 and P.W-3 have clearly deposed that four persons travelled in the Eicher Lorry and two of them have absconded. The apprehended Accused A-1 and A-2 have revealed the name of the appellants A-3 and A-4 when they were interrogated. Apart from that, they have given confession

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implicating A-3 and A-4. Further, A-3 and A-4 were arrested and they were taken custody and their statements were recorded wherein they admitted that they have also travelled in MO-8 Eicher Lorry. Therefore, according to the learned Government Advocate (Criminal Side), the involvement of the appellants were proved.

26. On a careful perusal of the recording of the secret information by P.W-6, it is found that the name of the appellants were found. The said Ex.P-8 reached the Court on 16.02.2023. Further, on careful perusal of records, it is found that the co-Accused A-1 and A-2 have given Ex.P-5 and Ex.P-6 confession statements revealing the names of the appellants with the police who have fled away from the scene of occurrence. Further, Ex.P-19 is the statement of A-3 Rajkumar given to Investigation Officer. Ex.P-20 is the statement of A-4 given to Investigation Officer. The prosecution relied upon only these materials to base a conviction of the appellants in the above crime. However, the learned counsel for the appellants relied on the decision of the Honourable Apex Court in ***Surinder Kumar Khanna vs. Intelligence Officer, Directorate of Revenue Intelligence*** reported in ***CDJ 2018 SC 789*** wherein the Honourable Apex Court relied on its earlier decision in ***Kanhaiyalal vs Union of India*** reported in ***(2008) 4 SCC 668*** wherein it has held as below:

> *"7. For the present purposes, we will proceed on the footing that the statements of co-Accused were recorded under and in terms of Section 67 of the NDPS Act. As regards such statements, a bench of two Judges of this Court after referring to and relying upon the earlier Judgments, observed in Kanhaiyalal v. Union of India1, as under:*

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> *"45. Considering the provisions of Section 67 of the NDPS Act and the views expressed by this Court in Raj Kumar Karwal case2 with which we agree, that an officer vested with the powers of an officer in charge of a police station under Section 53 of the above Act is not a "police officer" within the meaning of Section 25 of the Evidence Act, it is clear that a statement made under Section 67 of the NDPS Act is not the same as a statement made under Section 161 of the (2008) 4 SCC 668 (1990) 2 SCC 409 Code, unless made under threat or coercion. It is this vital difference, which allows a statement made under Section 67 of the NDPS Act to be used as a confession against the person making it and excludes it from the operation of Sections 24 to 27 of the Evidence Act."*

27. However, the Hon'ble Apex Court in ***Tofan Singh vs State of Tamil Nadu*** reported in ***(2013) 16 SCC 31*** doubted the correctness of the decision in *Kanhaiyalal v. Union of India cited supra and referred* the matter to the Larger Bench. The larger Bench in the decision reported in ***(2021) 4 SCC 1*** by 2:1 majority answered the reference as below:

> *"155.We answer the reference by stating:*
>
> *(i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers" within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.*
>
> *(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act."*

28. Further, the Constitution Bench of the Apex Court in ***Haricharan Kurmi vs. State of Bihar*** reported in ***AIR 1964 SC 1184*** observed as under:

> *"4. The facts leading to the prosecution of the appellants lie within a narrow compass, and so far as the point which falls to be considered in the present appeals is concerned, there is no dispute in*

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respect of the said facts. Deokinandan Jaiswal is a fairly wealthy businessman and lives in village Dumarbana within the police station of Bairgania in the district of Muzaffarpur. He has a house of his own. Achheylal and Ram Bachan served under him as minims. Jogender Sinch was Jaiswal's sepoy and Ram Surat was his personal servant. The appellants are the co-villagers of Jogender Singh who was one of the Accused persons. It appears that on the 24th March, 1960, Jaiswal had received Rs. 15,000 in currency notes from his partner Nathan Mary in the presence of his minims Achheylal and Ram Bachan; in fact, as the said amount was handed over to Jaiswal in the form of different currency notes, Ram Bachan and Achheylal were asked by him to count the said amount. The said amount was then put in different bundles by Jaiswal and to it was added another amount of Rs. 2,000 which he took out from his iron safe. The two bundles were then put together in a bigger bundle and to it was attached a slip containing his signature and date. According to Jaiswal, he handed over the amount of Rs. 17,000 thus put in two bundles to his wife Damyanti Devi, and in her turn, she put the said bundles into the iron safe which had been kept at the first floor of the house in the room adjoining the bed-room. About this time, some functions were organised by the Bharat Sevak Samaj in the village and Jaiswal was the convener in regard to the said functions. Naturally, he had to attend to the delegates who had come to the village for the said functions. During the days of these functions, Jaiswal used to return home by about 10 P.m., but on the night of the 24th March, 1960, the function went on late, and so, Jaiswal slept at the Dharamshala where the function took 'Place and did not return home. That is how Damvanti Devi was left alone in the house on the first floor and her only companion was her child Mina about 3 1/2 years old. Apparently, Damyanti Devi retired to her bed-room with her little child and on the ground floor were sleeping three of the Accused persons, Achheylal, Ram Bachan and Jogender Singh Ram Surat was on leave, so that out of the four servants employed by Jaiswal, three were sleeping on the premises. Batahu, the cook of the family, was sleeping in a verandah attached to the motor garage."

29. Therefore, in the light of the decisions of the Apex Court cited supra, it is clear that the statement under Section 67 amounts to confession and the confession being a weak piece of evidence cannot be the sole basis for conviction without any corroborating material. The judgment relied on by the appellants by the Apex Court in ***Mohammed Fasrin v. State rep. By the***

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Intelligence Officer, reported in ***CDJ 2019 SC 1560*** is also to that effect.

30. From the above decisions, it is clear that even assuming that a statement recorded under Section 67 of NDPS Act amounts to a confession, as per the decision of the Honourable Apex Court in ***Haricharan Kurmi vs. State of Bihar*** reported in ***AIR 1964 SC 1184*** in which the learned Government Advocate (Criminal Side) has also placed reliance. The Honourable Apex Court has made it very clear that the confession of a co-Accused is not an evidence within the meaning of Section 3 of the Evidence Act. But it is only a matter to be considered along with other substantive piece of evidence. Further, the confession to a Police Officer is inadmissible in evidence unless a fact discovered by the said confession and supported by a subsequent recovery. In this case, the involvement of the appellants came to light even before the confession of the co-Accused, therefore, the statement of the Co Accused cannot be considered as a disclosure made by them. Therefore, Ex.P-19 and Ex.P-20 is inadmissible in evidence as it is given to the Police Officer. Even if it is not a confession, the said statement given to a Police Officer after commencement of the investigation and therefore, it cannot be proved in lieu of bar under Section 162 of Cr.P.C.

31. On going through the entire materials placed before the trial Court, it is found that except the confession of the co-Accused, nothing is available on

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record to prove the involvement of the appellants herein. Though the Government Advocate (Criminal Side) had claimed that the eyewitnesses and the raiding party had seen the appellants fleeing away from the scene of crime, on a careful perusal of records, the witnesses P.W-1 and P.W-2 have only deposed that the appellants have fled away from the scene of crime. The evidence of PW-3 independent witness is only a hearsay in nature. Even P.W-1 and P.W-2 have not identified the appellants herein are the one who have fled away from the scene of crime in the dock. Further, the appellants are absolute strangers to the raiding party. No identification parade was conducted after they were secured by the Investigation Officer. Therefore, except the confession statement of the co-Accused, nothing is available on record to show that the appellants hearing are also involved in the above crime.

32. As per the decisions relied on by the learned counsel for the appellants, the confession of the co-Accused is not a substantive piece of evidence and therefore, that alone cannot be a basis for conviction of the appellants herein. Therefore, the conviction and sentence imposed on the appellants by judgment dated 05.09.2024 in C.C.No.782 of 2023 of the learned I Additional Special Court for EC and NDPS Act Cases, Madurai, is hereby set aside.

33. In the result, both the appeals are allowed. The conviction and sentence imposed on the appellants in both appeals in C.C. No.782 of 2023,

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dated 05.09.2024, by the learned Additional District Judge, I Additional Special Court for EC and NDPS Act Cases, Madurai, are set aside. The appellants are in custody, they are set at liberty at once. The fine amounts, if any, paid are ordered to be refunded to the appellants in both appeals. Consequently, the connected miscellaneous petitions are closed.

11-11-2026

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

SRM

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To

1. The I Additional Special Court for EC and NDPS Act Cases,
   Madurai.

2. The Inspector of Police,
   S.S. Colony Police Station,
   Madurai City.

3. The Superintendent,
   Central Prison,
   Madurai.

4. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madras.

Copy To :
The Section Officer,
VR Section,
Madurai Bench of Madras High Court.

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S.KARTHIKEYAN, J.

SRM

Common Judgment made in
CRL A(MD) Nos. 921 of 2024 and 914 of 2025

11-11-2026

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