
(1999) 01 MAD CK 0008

In the Madras High Court

Case No : Criminal Appeal No's. 32, 33 and 34 of 1993

Sakunthala and Others

APPELLANT

Vs

State by Inspector of Police

RESPONDENT

Date of Decision : 22-01-1999

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 20

Citation : (1999) CriLJ 3653

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Advocate : R. Muthukrishnan, for the Appellant; N.R. Elango, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

M. Karpagavinayagam, J.—These appeals could be disposed of by a common judgment, as the question of law raised in all these appeals is the same.

2. The facts in C.A. No. 32 of 1993 are as follows :-

Sakunthala, the appellant herein was found in possession of 15 kgs. of Ganja in her house and a case was registered against her u/s 20(b)(i) of

N.D.P.S. Act. In this case, she was convicted for the said offence and sentenced to undergo S.I. for one year and to pay a fine of Rs. 100/-, in

default to undergo S.I. for one month.

3. The facts in C.A. No. 33 of 1993 :- Kullam, the appellant herein was found in possession of 15 kgs. of Ganja in his house and the case was filed

against him u/s 20(b)(i) of the N.D.P.S. Act. In this case, he was convicted for the said offence and sentenced to undergo R.I. for one year and to

pay a fine of Rs. 100/-, in default, to undergo S.I. for one month.

4. The facts in C.A. No. 34 of 1993 :- Chinnammal, the appellant herein was found in possession of 15 kgs. of Ganja in her house. The case was

filed against the appellant-Chinnammal and one Arjunan, the son of the said Chinnammal for the offence u/s 20(b)(i) of the N.D.P.S. Act.

However, the said Arjunan was acquitted. The appellant alone was convicted and sentenced to undergo S.I. for one year and to pay a fine of Rs.

100/-, in default, to undergo S.I. for one month.

5. In all these appeals, the point raised by the counsel for the appellants is that on the date of the seizure, that is on 10-8-1991, in all these cases,

only Deputy Superintendent of Police is empowered to investigate and file the charge-sheet, but in the instant case the Inspector of Police has

conducted investigation and filed the charge-sheet and as such, the conviction is vitiated.

6. In order to substantiate the above submission, he cited the decisions in Sivakumar alias Kumar alias Sugumar, In Re 1989 MLW 65 and

Rajendran alias Kulla Rajendran v. State of Asst. Commissioner of Police, etc. 1993 MLW 412.

7. In reply to the said submission, the learned Government Advocate would bring to the notice that in these cases, the entire investigation was done

by the Superintendent of Police who has been examined as one of the witnesses and as such, the decisions cited by the counsel for the appellants

would not be applicable to these cases.

8. I have considered the submissions and gone through the records.

9. In all these cases, the search and seizure was made in the presence of the Superintendent of Police, who has been examined as one of the

witnesses in these cases. The question of competency in conducting investigation has never been raised either before the lower Court or in the

grounds of appeal. The Superintendent of Police who has been examined as a witness in these cases would specifically state that he participated in

the process of seizure and the investigation. Moreover, the concerned village Administrative Officer also has been examined and he has stated that

the seizure was done by the Inspector of Police in the presence of the Superintendent of Police. Admittedly, both the Inspector of Police and the

Superintendent of Police have been examined in all these cases. Therefore, there

is no merit in the contention raised by the counsel for the appellants.

10. However, since there is no minimum sentence prescribed, I am of the view that the sentence of imprisonment for one year could be, reduced to three months to meet the ends of justice. Accordingly, the sentence of imprisonment alone is modified to the effect that the appellants are sentenced to respective imprisonment for three months and to pay a fine of Rs. 100/- each, while confirming the conviction.

11. With the above modification in sentence, these appeals are dismissed.