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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.10.2026

Pronounced on : 05.11.2026

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

CRL OP(MD) No. 20324 of 2026

CNR:{HCMD011295492026}

and

CRL MP(MD) No. 19334 of 2026

Praveen Kumar

..Petitioner(s)/A2

Vs

1. State Of Tamilnadu,
   Rep by the Inspector Of Police,
   Rajapalayam North Police Station,
   Virudhunagar District.
   Crime No. 157/2025.

2. Mariammal.P
   Sub Inspector of Police,
   Rajapalayam North police Station,
   Virudhunagar District.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the FIR in Crime No. 157/2025 dt. 13.03.2025 on the file of the Rajapalayam North Police Station, Virudhunagar District and quash the same insofar as the petitioner/A2 Praveen Kumar is concerned.

For Petitioner(s) :M/s RAJAGURU.G.

For Respondent(s) : M/s.P.Samuel Gunasingh
Additional Public Prosecutor for R1

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ORDER

The petitioner, arrayed as A2 in Crime No.157 of 2025 on the file of the first respondent police, has invoked the inherent jurisdiction of this Court under Section 528 of BNSS, 2023, seeking to quash the First Information Report insofar as it relates to him. The petitioner stands accused of having committed offences punishable under Sections 8(c) r/w 20(b)(ii)(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the NDPS Act") and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the JJ Act").

Facutal Matrix:-

2. Shorn of unnecessary details, the case of the prosecution, as unfolded in the FIR, is that on 13.03.2025 at about 09.30 a.m., the second respondent, the Sub-Inspector of Police, received secret information that ganja was being sold in the vicinity of the Government Maternity Hospital, Rajapalayam. After apprising the Inspector of Police and obtaining necessary instructions, she proceeded to the spot along with the Head Constable, a Grade-I Police Constable, weighing scales and other equipment. At about 10.30 a.m., the police party noticed two persons standing at the spot, one of whom was handing over a packet to an

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unidentified student clad in a school uniform. On sighting the police party, the student ran away. The two persons, who also attempted to flee, were secured by the police party and were identified as A1 and A2.

3. It is the further case of the prosecution that the accused were informed that they were suspected of being in possession of contraband and were asked whether they wished to be searched in the presence of a Gazetted Officer or the nearest Judicial Magistrate. The accused are stated to have declined the said option and consented to be searched by the police party. A search consent letter was accordingly prepared and was signed by both the accused. Upon personal search, A1 produced six small polythene packets and the petitioner/A2 produced five small polythene packets from their respective pant pockets. The contents were found to be ganja, weighing 70 grams in all. Of this, 20 grams was drawn as sample and the remaining 50 grams was packed separately, and both were duly sealed. The accused are alleged to have stated that they had purchased the ganja from an unidentified person at Sivagiri and were selling the same in and around Rajapalayam for profit, within 100 metres of the Government Sevugapandi School. The seizure mahazar records that no independent witness came forward to attest the same and that it

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was, therefore, signed by members of the police party. The petitioner was arrested on 13.03.2025 and remanded to judicial custody.

The submissions of the learned Counsel appearing on either side are as follows:-

4. The learned Counsel appearing for the petitioner would contend that the allegations in the FIR, even if taken at their face value and accepted in their entirety, do not make out the ingredients of the offence under Section 77 of the JJ Act as against the petitioner. It is submitted that the so-called school student is an unidentified person who fled from the spot, and there is no material whatsoever to show that he was a "child". The specific overt act of handing over the packet is attributed only to the co-accused, A1, and not to the petitioner. According to the learned Counsel, the petitioner cannot be fastened with liability merely on account of his presence along with A1, and the alleged recovery of five packets from him does not, by itself, establish that he had any role in supplying a narcotic substance to a child.

5. The learned Counsel for the petitioner would further submit that, though the petitioner and the co-accused were informed of their right to be searched before a Gazetted Officer or a Magistrate, the police

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proceeded to search them on the strength of a purported consent. It is pointed out that the consent letter is in a printed proforma and that the signatures of both the accused were obtained on a single consent form. The learned Counsel would urge that the requirement under Section 50 of the NDPS Act is mandatory in nature and cannot be substituted by a joint consent. Consequently, the search and the resultant recovery stand vitiated.

6. In support of his submissions, the learned Counsel for the petitioner placed reliance upon the decisions of the Hon'ble Supreme Court in ***Ranjan Kumar Chadha Vs. State of Himachal Pradesh, 2023 SCC OnLine SC 1262*** and ***State of Rajasthan Vs. Parmanand and another, (2014) 5 SCC 345***, the decision of the ***High Court of Himachal Pradesh at Shimla in State of Himachal Pradesh Vs. Soni and another, 2025 HHC 33178***, and the judgment of this Court in ***Raja Anand and another Vs. State, Crl.A.No.755 of 2023, dated 12.03.2026***. It is his submission that a joint consent form obtained from both the accused is patently illegal and does not satisfy the mandatory requirement of Section 50 of the NDPS Act.

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7. Per contra, the learned Additional Public Prosecutor appearing for the first respondent would submit that the petitioner was apprehended at the spot along with A1, immediately after A1 had handed over a packet to the school student. It is submitted that five small packets were recovered from the petitioner's own pant pocket. Both the accused were apprised of their right under Section 50(1) of the NDPS Act and, having declined to be produced before a Gazetted Officer or a Magistrate, executed the consent form permitting the police party to search them.

8. The learned Additional Public Prosecutor would further contend that the allegations disclose a concerted act on the part of the accused in selling ganja to school children in the vicinity of a school, and that the question as to whether the recipient was a child is a matter for investigation and trial. It is lastly contended that, even assuming that there was some irregularity in the search and seizure, the same cannot constitute a ground to quash the FIR at the threshold. Reliance was placed upon the decision of the Constitution Bench of the Hon'ble Supreme Court in ***State of Punjab Vs. Baldev Singh, (1999) 6 SCC 172***.

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Discussion: -

9. Heard the learned Counsel on either side and perused the materials available on record. The points that arise for consideration in this petition are:-

a) Whether the alleged non-compliance with Section 50(1) of the NDPS Act in the personal search of the petitioner would constitute a ground for quashing the FIR; and

b) Whether the allegations in the FIR, taken at their face value, disclose the commission of the offences alleged against the petitioner, including the offence under Section 77 of the JJ Act.

10. The principal contention advanced on behalf of the petitioner is that the consent form is not in conformity with Section 50(1) of the NDPS Act and runs contrary to the law laid down by the Hon'ble Supreme Court in ***State of Rajasthan Vs. Parmanand and another, (2014) 5 SCC 345***, wherein the practice of obtaining a joint consent was deprecated as being violative of Section 50(1) of the NDPS Act.

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11. This Court has carefully perused the consent form. A reading of the same reveals that the accused were offered the option of being taken either before a Judicial Magistrate or before a Gazetted Officer, and were also asked whether they had any objection to being searched by the police party. Both the accused have signed the single consent form and recorded their consent. On a close reading of the facts in ***Parmanand*** (supra), it is seen that, of the two accused therein, one had signed on behalf of the other; in other words, consent was given by only one of them. In the case on hand, however, both the accused have affixed their respective signatures. Hence, the said decision is clearly distinguishable on facts and does not come to the aid of the petitioner.

12. The learned Counsel for the petitioner next relied upon the decision in ***Ranjan Kumar Chadha Vs. State of Himachal Pradesh, 2023 SCC OnLine SC 1262***. A reading of paragraph 57 of the said judgment shows that the contraband therein was recovered from a bag carried by the accused, whereas in the present case, the recovery is from the pant pocket of the petitioner, which would constitute a personal search. In paragraph 66(v) of the said judgment, the Hon'ble Supreme Court has held that where multiple persons are to be searched, each of them must be individually informed of his right and must exercise or

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waive the same in his own capacity, and that any joint or common communication of the said right would be violative of Section 50 of the NDPS Act.

13. In the case on hand, each of the accused has independently signed the consent form, albeit a single form. Whether such a procedure amounts to substantial compliance with Section 50(1), or whether it suffers from an infirmity of the nature contemplated in ***Ranjan Kumar Chadha*** (supra), is essentially a question of fact. Such an infirmity, if any, would at best affect the evidentiary value of the recovery and would not vitiate the trial itself. The question, therefore, is one that has to be adjudicated only during the course of trial, on the basis of the evidence that may be adduced.

14. The Constitution Bench of the Hon'ble Supreme Court in ***State of Punjab Vs. Baldev Singh, (1999) 6 SCC 172***, has, in sub-paragraphs (3) and (5) of paragraph 57, held as follows:-

> *" (3) That a search made by an empowered officer, on prior information, without informing the person of his right that if he so requires, he shall be taken before a gazetted officer or a Magistrate for search and in case he so opts, failure to conduct his search before a gazetted officer or a Magistrate, may not vitiate the trial but would render the recovery of the illicit article*

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suspect and vitiate the conviction and sentence of an accused, where the conviction has been recorded only on the basis of the possession of the illicit article, recovered from his person, during a search conducted in violation of the provisions of Section 50 of the Act.

(5) That whether or not the safeguards provided in Section 50 have been duly observed would have to be determined by the court on the basis of the evidence led at the trial. Finding on that issue, one way or the other, would be relevant for recording an order of conviction or acquittal. Without giving an opportunity to the prosecution to establish, at the trial, that the provisions of Section 50 and, particularly, the safeguards provided therein were duly complied with, it would not be permissible to cut short a criminal trial."

15. In view of the authoritative pronouncement of the Constitution Bench cited supra, it is manifest that even assuming that there was any defect in obtaining the consent of the accused at the time of the personal search, the same is a matter to be determined only at the trial, on the basis of the evidence let in. It would, therefore, not be permissible for this Court, in exercise of its inherent jurisdiction, to quash the FIR and thereby interdict the investigation at its inception. Accordingly, point (a) is answered against the petitioner.

16. Insofar as the offences under Section 8(c) r/w 20(b)(ii)(A) of the NDPS Act are concerned, the FIR specifically alleges that five packets of

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ganja were recovered from the pant pocket of the petitioner. The petitioner is, therefore, not alleged to have been a mere bystander at the spot; he is alleged to have been in conscious possession of contraband packed in small packets for the purpose of sale. The contention that the total quantity is only about 70 grams has a bearing only on the quantum of punishment and not on whether an offence is made out. Likewise, the submission that the statements allegedly made by the accused before the police do not constitute substantive evidence is not a ground that can be entertained at this stage, since the FIR does not rest solely on those statements. These are all matters to be considered by the trial Court.

17. As regards the offence under Section 77 of the JJ Act, the said provision renders punishable not only the act of giving an intoxicating liquor, narcotic drug or psychotropic substance to a child, but also the act of causing the same to be given. The FIR alleges that the petitioner and A1 were standing together at the spot, that A1 handed over a packet to a student in school uniform in the presence of the petitioner, that both of them attempted to flee on seeing the police, and that both were found in possession of similar small packets of ganja. Whether the petitioner shared a common intention with A1, or abetted or caused the supply of the substance, is a question of fact. Equally, whether the student who ran

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away is a “child” within the meaning of Section 2(12) of the JJ Act is a matter that depends upon the materials to be collected during investigation and the evidence to be let in at the trial. The mere fact that the student could not be secured at the spot does not, by itself, render the allegations unsustainable at the threshold. The Investigating Officer shall make all endeavours to identify and examine the said student. Thus, the allegations in the FIR, taken at their face value, disclose the commission of cognizable offences by the petitioner, and the grounds urged on his behalf are matters of defence which can be tested only at the trial. Point (b) is answered accordingly.

18. It is made clear that the observations made hereinabove are confined to the disposal of the present petition. The trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by any of the observations made by this Court. It is open to the petitioner to raise all defences available to him, including the plea of non-compliance with Section 50 of the NDPS Act, before the trial Court.

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Conclusion:-

19. In the light of the foregoing discussion, this Court finds no merit in the petition. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

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

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To

1. The Inspector Of Police,
   Rajapalayam North Police Station
   Virudhunagar District

2. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

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R.VIJAYAKUMAR, J.
RJR

Pre-delivery order made in
CRL OP(MD) No. 20324 of 2026

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