

District and Sessions Court for Communal Clash Cases, Madurai

Present: D.Jeyakumari Jemi Rathna, B.Com., B.L.,

District and Sessions Judge,

Communal Clash Cases Court, Madurai

day the 28th day of April 2026

C.C. No. 30/2018

Tamil Nadu State represented by
The Inspector of Police,
Ammaiyanaickanur
Cr.No. 313/2016

..... Complainant

//Vs//

Perumayee
W/o. Ammasi

..... Accused

This case came up on 21.04.2026 for final hearing before this court in the presence of Thiru.R.Ramasubramanian, Special Public Prosecutor, on behalf of the state and Advocate Thiru.NA.Manimaran appearing for the Accused and on hearing the arguments and perusal of documents this court delivers the following:

JUDGMENT

Brief facts of Final Report:

1. On 12.09.2016 at 12.05 hours, accused Perumayee aged 61 years, was found in possession of 1.500 Kg of contraband in the backyard of her house, at Raman Chetty patti, Pallapatti. When the said contraband was sent for chemical analysis, the presence of

Canabinoid is conformed. Thus accused has committed an offence punishable u/s 8(c) r/w 20(b)(ii)(B) NDPS Act for illicit possession of prohibited contraband substance, Ganja.

2. As soon as the final report was taken on file, process was ordered to the accused.

3. Once accused appeared on receipt of summon, copies of all the documents relied on by prosecution was furnished to the accused. Then the case was posted for questioning.

4. When the accused was questioned about offence and accusation she denied the accusation as false. Hence charge was framed u/s 8(c) r/w 20(b)(ii)(B) NDPS Act and the same was read over and explained to the accused. She denied the charge as false and pleaded not guilty and claimed to be tried.

Hence the case was posted for trial

On the side of prosecution, Pw1 to Pw4 were examined. Ex.P1-P11 and Mo.I & Mo.II were marked.

5.Case of the Prosecution in nut shell

On 12.09.2016, when Pw2, Sub Inspector of Police – Sumathi was on duty at Ammaya Naickanoor Police station, at 10.00 hrs received information. She recorded the said information in the General Diary of the station at 10.15 hrs. And informed the same to the Inspector of police. Then as per his guidance arranged for a raid

consisting of Pw1 and Pw4. Pw1, Pw2 and Pw4 proceeded towards Ramanchettypatti near Pallapatti. When the raid party engaged in overseeing a woman aged about 63 years stood there suspiciously. Hence Pw2 approached that person and enquired about her. She informed police party that her name is Perumayee, W/o.Ammasi. Therefore Pw2 informed her that police is suspecting her of peddling contraband and they like to conduct search. Also Pw2 informed of her right of search either in the presence of nearest Judicial Magistrate or any Gazatted Officer. But she denied to be searched in the presence of nearest Judicial Magistrate or Gazatted Officer and permitted the police party to conduct search. Search consent statement is Ex.P4.

6. As third parties were not available, in the presence of Pw1 and Pw3, Pw2 opened and searched the bag carried by the accused and found prohibited contraband in it, weighting 1.500 Kg. At 12.15 hrs Pw2 arrested the accused. From the 1.500 Kg of contraband article 50 grams was drawn for sample to be sent for chemical analysis. Also Pw2 recovered the prohibited contraband article vide Ex.P1 Seizure Mahazar in the presence of Pw3. Then Pw2 brought the accused to the police station along with the recovered Prohibited contraband article and registered the said Crime in Cr.No.313/2016 for the alleged offence punishable u/s 8(c) r/w 20(b) (ii)(B) NDPS Act. Secret information is Ex.P2 permission letter by inspector of police is Ex.P3. Arrest memo is Ex.P5. Registered First information

Report is Ex.P6. Then PW2 placed the case records before PW3, Inspector of Police for further action. PW3 took the case for investigation. PW3 enquired PW1 and PW2 and send the accused for remand along with the recovered prohibited contraband article for court custody, Vide Form 91. Also PW3 submitted Ex.P9 requisition for sending samples drawn for chemical analysis. Pw4, who succeeded PW3, took the case for investigation and enquired Pw1, Pw2 and chemical analyst. Presence of cannabinioid in the sample was conformed in the chemical analysis. Hence Pw4 laid charge sheet against the said accused u/s 8(c) r/w 20(b)(ii)(B) of NDPS act . Ex.P10 is the requisition sent by court for chemical analysis. Ex.P11 is the chemical analysis report. Returned sample after chemical analysis is Mo.I. Remaining contraband recovered is Mo.II.

7. The Learned special Public Prosecutor would contend that the possession of contraband article by the accused person was clearly spoken by the prosecution witness. Also presence of connabinoid in the sample drawn from the prohibited contraband article is proved by the chemical analysis report. Thus the prosecution has proved that the recovered contraband article is Ganga. Culpable State of mind of accused is proved. There is no evidence by defence to disprove the possession of contraband by the accused and the recovery of the same from the accused. Hence accused has to be punished with maximum sentence.

8. Learned defence counsel would contend that the prosecution has failed to prove alleged recovery of contraband article from the accused. Also procedure u/s 42 and 43 of NDPS Act not followed during alleged recovery. When procedure is not followed properly, it has to be taken as prosecution has failed to prove the case.

9. As per the case of prosecution, the accused here in was found in possession of 1.500 kg of prohibited contraband article. Sample drawn from the alleged recovered contraband was sent for chemical analysis, and was found the presence of cannabinoid in the sample. Thus it is clear that the accused was found in possession of illegal contraband article. When possession not proved by the oral evidence of prosecution witness, alleged recovery is well spoken cogently by PW2 said recovery was made in the presence of PW1. This PW1 has also spoken cogently about the recovery by PW2.

10. Place of recovery is a public place. Thus prosecution has proved the conscious possession of illicit prohibited contraband by the accused which establishes the culpable state of mind of accused.

11. Thus the presumption u/s. 35 & 54 of the Act is in favour of prosecution.

12. On perusal and careful analysis of evidence of PW1 & PW2, it is very clear that they have spoken cogently about the

possession of contraband by the accused and the recovery of the same from the accused.

13. There is no evidence much less any satisfactory evidence either oral or documentary to show that the contraband was neither recovered from the accused nor handed over by the accused from her conscious possession.

14. The word **possession**” has not been defined in the Narcotic Drug and Psychotropic Substance Act., nor it is defined in the Criminal Procedure Code.

15. However, possession implies control over an article or thing. When the possession is with knowledge, it is called conscious possession.

16. Here in this case, as per the case of prosecution and the oral evidence of PW1 and PW2, the accused found in possession of prohibited contraband. Also it was recovered from the possession of accused. Then this court can very well infer that possession of contraband by the accused was with knowledge. Thus it is clear this the possession is conscious possession.

17. When the accused was caught in possession of 1.500 kg of Ganja in contravention to Section 8 of Narcotic Drug and Psychotropic Substance Act.

18. In order to make the possession illicit, there must be a conscious possession.

19. The word conscious means, awareness about a particular fact. It is a state of mind which is deliberate or intended.

20. What accounts to conscious possession was also considered in Dharam Pal Singh Vs. State of Punjab where it was held that the knowledge of possession of contraband has to be gleaned from the facts and circumstances of the case.

21. In Mohan Lal Vs. State of Rajasthan also it was observed that the term possession could mean physical possession with "animus". Custody over the prohibited substance with animus, exercise of dominion and control as a result, of concealment or personal knowledge as to the existence of contraband and intention based on this knowledge.

22. Once possession is established, the person who claims, that it was not conscious possession, has to establish it. Because how she came to be in possession is within her special knowledge. Section 35 of the act give a statutory recognition of the position, because of the presumption available in law. Similar is the position in terms of Section 54, where also presumption is available in law to be drawn from possession of illicit article.

23. Section 20(b) makes possession of contraband article an offence.

24. Unless the possession was coupled with the requisite Mental element (ie) conscious possession and not there custody without awareness of the nature of such possession, Sec 20 is not attracted.

25. Section 20(b) (ii)(C)

Sec.20 : Whoever, in contravention of any provision of this act or any rule or order made or condition of license granted there under.

(b) Produces, Manufactures, Possesses, Sells, purchases, transports, imports interstate, exports interstate or uses cannot shall be punishable.

26. Section 20(b) makes possession of contraband article an offence. Sectopm 20 which relates to offence for possession of such articles.

27. In order to make possession illicit, there must be conscious possession.

28. Unless possession was coupled with the requisite Mental element, (ie) conscious possession and not there custody without awareness of the nature of such possession, Sec. 20 is not attracted.

29. The word “Conscious” means awarness of a particular fact ie. a state of Mind which is deliberate or intended.

30. In this case the said contraband was marked without any objections and hence the contention of the Learned counsel for the accused that there is delay in producing the contraband before court is not legally sustainable. Also it is clear that the entire contraband was produced before the Learned Judicial Magistrate at the time of remand itself and the same was duly verified by the Learned Judicial Magistrate and therefore the same was produced before the Special Court, without any tampering of the seal.

31. The most Hon'ble constitution Bench of the Supreme Court in Mukesh Singh Vs. State (Narcotic Branch of Delhi) reported in (2020) 10 Sec.120 reiterated the principle that the non examination of the independent witnesses is not a circumstances to disbelieve the evidence regarding recovery, when the other evidence are cogent and trust worthy.

32. The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act as also the impact on the society as a whole. It has to be interpreted literally and not liberally which may ultimately frustrate that object, purpose and preamble of the act.

33. It is pertinent to note that there is no plea of illegally or irregularity in search and seizure.

34. On the above said circumstances this court has come to the conclusion that the prosecution has proved that the accused was in possession of illicit article that to in conscious possession.

35. Thus it is clear that the charge u/s. 8(c) of NDPS Act is proved against the accused.

36. When possession of contraband article is an offence, the charge u/s 20(b)(ii)(C) of the NDPS Act is also proved.

37. Therefore this court has come to the conclusion that the accused is found guilty of the charge punishable u/s 8(c) r/w 20(b)(ii)(C) of NDPS Act.

38. In the result, accused is found guilty u/s 8(c) r/w 20(b)(ii)(B) of the NDPS Act and convicted u/s 248(2) Crpc and sentenced to undergo Rigorous Imprisonment for a period of **Seven Years and to pay a fine of Rs.75,000/-** in default to undergo Simple Imprisonment for a period of **2 years**.

39. The property produced in R.P.R.No.206/2017 is ordered to be destroyed in accordance with the NDPS rules, either after the disposal of the appeal if any preferred or after the expiry of the time prescribed for preferring the appeal.

Hand written by me and typed by Typist in computer and corrected and pronounced by me in the open court, this the 28th day of April 2026.

District and Sessions Judge,
Communal Clash Cases Court,
Madurai.

Prosecution side witness

P.W.1	Tmt.Suseela
P.W.2	Tmt.Sumathi
P.W.3	Tr.Bala Murugan
Pw-4	Tr.Sureshkumar

Prosecution side Documents:

Ex.P. 1	Aathatchi
Ex.P. 2	Secret information
Ex.P. 3	Letter requesting permission for Raid
Ex.P. 4	Consent letter
Ex.P. 5	Arrest Namoonna
Ex.P.6	FIR
Ex.P.7	Form -91
Ex.P.8	u/s 57 Detailed Report
Ex.P.9	Requisition letter given by the Inspector of Police

Ex.P.10	Letter sent to Forensic Department by Court.
Ex.P.11	Chemical Analysis Report

List of Properties:

M.O. 1	Sample Ganja sent for chemical analysis and returned
M.O. 2	Remaining Ganja

Defense side witness: NIL**Defense side Exhibits:** NIL

District and Sessions Judge,
Communal Clash Cases Court,
Madurai

**District and Sessions Court/
Communal Clash cases Court**

Madurai.

C.C. 30/2018

Draft/Fair Judgment

Dated:28.04.2026