

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**

Saturday the 06th day of June 2026

C.C. No. 303/2019

Tamil Nadu State represented by
the Inspector of Police,
Cumbum North Police Station,
Cr.No.596/2018

..... Complainant

//Vs//

Sivaraj,
S/o.Thangaraasu

..... Accused

This case came up on 03.06.2026 for final hearing before this court in the presence of Thiru.R.Ramasubramanian, Special Public Prosecutor, on behalf of the state and Advocate Thiru.R.Ravi appearing for the Accused and on hearing the arguments and perusal of documents this court delivers the following:

JUDGMENT

Brief facts of charge sheet:

1. On 31.12.2018, at 11.30 hrs the accused in this case were peddling illicit contraband article and found in possession of the same

weighing 2.200 Kg. illegally inform of 18th channel pathway, near Kaattuva Mosque, at Cumbum, in a Four Wheeler Honda Eon, bearing Registration No.KL 04 AM 2925. Thus they have committed an offence punishable u/s 8(c) r/w 20(b) (ii)(B) and U/s 25 NDPS Act.

2. On filing of Final report the same was taken on file and process was ordered to the accused.

3. On appearance of accused, copies of all the Material records / documents were furnished to the accused free of cost.

4. After hearing both and on perused of Material records, since prima facie case was made out, charge framed U/s.8(c) r/w 20(b) (ii)(B) NDPS Act r/w sec 34 IPC. The same was read over and explained to the accused. He denied the charge as false and pleaded not guilty and claimed to be tried.

5. Hence the case was posted for trial.

6. To prove the guilty of accused on behalf of prosecution, Pw1-Pw3 were examined and Ex.P1 – P12, Mo.I and Mo.II were marked.

7.Case of the Prosecution in nut shell

On 31.12.2018 at 10.45 hrs when Pw1 and Pw2 were on duty at Cumbum North Police Station, secret informer informed Pw2 the secret information. Immediately, Pw2 recorded the said secret

information, in the General Diary, and proceed on a raid at 11.15 hrs, with Head constable 1651. Rajakumaran, Head constable -1870- Muthukumaran and Pw1 Silambarasan with required equipments towards, 18th channel at Cumbum Kaattupalli. At 11.30 hrs when the said Police party engaged in raid, a Hundai Eon car bearing Registration No.KL 04 AM 2925 came from North was identified by the informer. Hence the police raid party waylaid the said car and introduced themselves and asked for the particulars of the persons boarded in the car and also told them that they are suspecting them of peddling illicit contraband article and intended to search them. Also police informed the right available to them and whether they are desirous to be searched in the presence of near by Learned Judicial Magistrate or any Gazetted Officer. Secret information is Ex.P1. Raid permission is Ex.P2.

Originally the case was taken on file against another five accused including yet another four by name Thangarasu, Rahul Rajendren, Delight Mathew and Biju Babu. Search consent statement from all the accused are Ex.P3, P4, P5 and P6. Among the said accused persons one by name Rahul Rajendran voluntarily handed over a white coloured carry bag taken from beneath the rear seat of the car, which contained illicit contraband article. The said article weighted 2.150 kgm 50 gm of sample was drawn on the spot from the said contraband. Also the said contraband was recovered vide Ex.P7, Recovery Mahazar. Report U/s 57 is Ex.P8, when police

went in search of this accused he had absconded. Contraband drawn as sample, which was returned by Forensic Laboratory are Mo.I and Mo.II. Then the accused and the recovered contraband were brought to station and crime was registered in Cr.No. 596/2018 for the alleged offence punishable u/s 8(c) r/w 20(b) (ii)(B) NDPS ACT. Registered FIR is Ex.P9. The recovered contraband was sent to court from custody vide Ex.P10 Form 91. On 07.01.2019, at 14.00 hrs this accused was arrested by police. Pw3 enquired the witnesses and recorded their statements. Also arrested accused was sent for remand. On 18.01.2019, Pw3 submitted Ex.P11 requisition before court for sending the sample drawn for chemical analysis. Chemical analysis report is Ex.P.12. Then Pw3 laid charge sheet against accused for the alleged offence punishable u/s 8(c) r/w 20(b)(ii)(B) NDPS ACT.

8. Rival contentions very carefully heard.

9. Material records and documents were carefully perused.

10. Point for consideration

Whether the accused is found guilty for the charge punishable u/s 8(c) r/w 20(b) (ii)(B) NDPS Act ?

11. The learned Special Public prosecutor would contend that, on the secret information received, police party went on a raid on 31.12.2018 and reached the alleged occurrence place, 18th channel, Kaatta Pallivasal and way laid a car bearing Register No.

K.L.04.M.2925, came from North toward south and enquired the persons bounded in the said car. Also police party introduced themselves and informed them that police is suspecting them of peddling illicit contraband and informed them their right to be searched in the presence of nearest Judicial Magistrate or any Gazetted Officer. But they denied to exercise that right available to them. One of the accused by name Rahul Rajendran voluntarily handed over a white Coloured plastic carry bag taken from beneath the rear seat of the car with contraband article. When the same was weighted, it weighed 2.200 kg.

12. The said contraband article was recovered and the said persons were arrested and were produced before court for remand and the recovered property was also sent for court custody, and the sample drawn was sent for chemical analysis. Chemical analysis report confirmed the presence of cannabinoid in the samples drawn. Hence final report has been laid by the investigating officer for the offence punishable u/s 8(c) r/w 20(b)(ii)(B) of NDPS Act.

13. The said for persons who were arrayed as accused have filed an application admitting their guilt and the case against them was disposed of on admission of guilt.

14. On the basis of the confession given by those accused, who were boarded in the car, this accused has been implicated for the reason that he sold contraband to the persons of neighboring state.

When the other accused have voluntarily admitted their guilt and were punished for peddling and found possession of contraband by this accused is also proved. The culpable state of mind of the accused is also spoken by prosecution witnesses. Hence this accused has to be punished with maximum sentence.

15. Despite sufficient opportunity given defence counsel did not come forward to adduce arguments.

16. On hearing prosecution arguments and on perusal of Material records including the testimony of prosecution witnesses, some points and questions remains unanswered.

17. As per the case of prosecution, originally in the spot of recovery, contraband was voluntarily handed over by the driver who drove the said car. The present accused in this case was physically not present. Based on the confession given by the first accused Thangarasu, this person has been arranged as accused. It is pertinent to note that, Thangarasu is none other then the further of this accused.

18. The scope and validity of a confession statement of a co-accused and its significance has to be assessed here.

19. As it evident from this case that this accused has been implicated only on the basis of the confession statement of a coaccused who was boarded in the car at the time of recovery of contraband article.

20. As per material records and evidence available, this accused was not physically present with other accused either in the car or in the alleged place of occurrence.

21. Only on the basis of confession statement of one of the accused Thangarasu, who is none other than the father of this accused person, he has been implicated in this case and arrayed as accused.

22. At the time of alleged search or alleged recovery, this accused was not in the said place of occurrence or place of recovery.

23. Also it is pertinent to note that, sample was not drawn from him or in his presence.

24. Therefore it becomes incumbent for this court to analyse the evidentiary value and admissibility of confession statement of coaccused. Also whether the confession statement of a coaccused can be used against this accused to convict him.

25. Therefore the question i.e whether any other material available to incriminate the accused is vital. But there is none. In the absence of any other material on record to connect this accused with the crime, the confession statement of the coaccused by itself cannot be the reason for his implication in the crime. In *Suresh Budharmal Kalani Vs State of Maharashtra*, (1998) 7 Sec. 337, it has been laid down and was stated that a coaccused's confession containing

incriminating matter against a person would not by itself suffice to frame charge against him. There is absolutely no case that any recovery of contraband from the accused. As regards the confession statement of the accused in view of Sec. 25 of the Indian Evidence Act 1872 there can be no doubt with respect to the fact, that it is inadmissible in evidence. In Ram Singh Vs. Central Bureau of Narcotics (2011) 11 Sec. 347, it was held that Section 25 of the Indian Evidence Act would make confessional statement of accused before Police is inadmissible in evidence act and it could not be brought on record by prosecution to obtain conviction. Shortly stated, except the confessional statement of the coaccused, there is absolutely no material available on record against this accused.

26. On the above said circumstances, this Court has comes to the conclusion that there is absolutely no material available to connect this accused with crime and to convict the accused and conclude that charge has been proved against the accused.

27. In the result this court has comes to the conclusion that the charge against the accused is not proved and the accused is found not guilty for the charge U/s. 8(c) r/w 20(b)(ii)(B) of NDPS Act and accused is acquitted from the charge u/s. 248(1) of Criminal Procedure Code.

28. Property in RPR No.23/2019 item No.1, white colour carry bag, item No.2, 50 gm sample drawn and item No.3, 2.150 gm

contraband are ordered to be destroyed as per NDPS rules, item No.4, car bearing registration No. KL o4 AM 2925, Hundai Eon, car which was given to its owner on interim custody shall be confiscated to the state and the owner shall return to this court.

Hand written by me and typed by Typist in computer and corrected and pronounced by me in the open court, this the 06th day of June 2026.

District and Sessions Judge,
Communal Clash Cases Court,
Madurai

Prosecution side witness

P.W.1	Tr.Silambarasan
P.W.2	Tr. Diwan Mydeen
P.W.3	Tr.Ulaganathan

Prosecution side Documents:

Ex.P. 1	Secret Information
Ex.P. 2	Permission letter for Ganja raid
Ex.P. 3	Consent letter given by Thangarasu
Ex.P. 4	Consent letter given by Delite Mathew
Ex.P. 5	Consent letter given by Ragulrajendran
Ex.P.6	Consentletter given by Bijju Babu

Ex.P.7	Attachi
Ex.P.8	U/s 57 Detailed Report
Ex.P.9	FIR
Ex.P.10	Form – 91
Ex.P.11	Requestion letter
Ex.P.12	Analysis Report

List of Properties:

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

Defense side witness: NIL

Defense side Exhibits: NIL

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Draft/Fair Judgment

Dated: 06.06.2026

