

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>th</sup> DAY OF NOVEMBER 2016

BEFORE

THE HON'BLE Mr. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION NO.8193/2016

BETWEEN:

Mallesha  
S/o. Gulleshetty  
Aged about 50 years,  
Residing at Pushpapura Village,  
Kollegal Taluk  
Chamarajnagara District  
Pin Code – 571 313.

... PETITIONER

(By Sri R.K.Mahadeva, Adv.)

AND:

1. The State of Karnataka  
Rep. by the Station House Officer,  
Hanur Police Station,  
Kollegal Sub-Division,  
Chamarajanagara District,  
Pin Code  
Rep. by its State Public Prosecutor,  
High Court Building,  
Bengaluru - 560 001.
2. Police Inspector  
Hanur Police Station,  
Kollegal Sub-Division,  
Chamarajanagara District,  
Pin Code -571313.

... RESPONDENTS

(By Sri K.R. Keshav Murthy, SPP-II)

This Criminal Petition is filed under Section 482 Cr.P.C., praying to quash the entire proceedings in Spl.Cr.No.48/2016 (is arising out of CR.No.48/2016) of Hanur Police Station, Kollegal Sub-Division, Chamarajanagara for the alleged offences punishable under Sections 20 cl (b) ii (B) and 20(a) i of NDPS Act, 1985 on the file of the Prl. District and Sessions Judge at Chamarajanagara.

This Criminal Petition coming on for admission, this day, the Court made the following:-

#### ORDER

Heard the learned counsel for the petitioner and the learned State Public Prosecutor.

2. It is the petitioner's case that a charge-sheet has been filed on 22.05.2016 against the present petitioner to the effect that he was transporting 2.5 k.g of 'ganja' in a plastic cover, illegally and he was intercepted by the Police of Hanur Police Station of Chamarajanagara District. On interrogation, he confessed that he was in illegal possession of 'ganja' and the same was seized in the presence of Medical Officer of Bandalli Health Centre and a case was registered upon such seizure of the material.

3. It is contended that the 'ganja' which is seized and stated to be weighing 2.5 k.gs grams, would not qualify under the definition of 'ganja' as contemplated under the Act. It is on this ground that the present petition is filed.

4. The learned counsel for the petitioner would point out that the definition of '*ganja*' *consists of the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated* decides the scope of Section 2(iii)(b) of the Act.

5. Ganja, which was seized should exclude the seeds and leaves of the cannabis plant. But however, it is seen that the seized 'ganja' was not merely the flowering or fruiting tops and therefore, in the circumstances, what was seized by the police was the roots, stem and leaves along with the flowering tops of the ganja plant. Unless ganja as defined under the NDPS Act is segregated from what is seized, the quantity of ganja seized can not be ascertained, to arrive at a conclusion that it has exceeded the

“commercial quantity” as prescribed under the Schedule to the NDPS Act. After segregation of ganja from the other parts of the cannabis plant, it may not be weighing 2.5 k.g of ganja and hence, leads to a conclusion that the charges against the petitioner would have to be dropped on that ground alone, and would not be sustainable.

6. Hence, the petition is allowed. The proceedings initiated against the petitioner in Special Case No.48/2016 on the file of Principal District and Sessions Judge, Chamarajanagara, stands quashed.

**Sd/-  
JUDGE**

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