

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 609 of 2015**

State of Chhattisgarh Through Police Station Dongargaon, District Rajnandgaon,
Chhattisgarh.

---- Petitioner

Versus

1. Shiva Pradhan S/o Karuna Pradhan Aged About 47 Years R/o Indira Nagar Dongargarh, District Rajnandgaon Chhattisgarh.
2. Mahesh Pradhan S/o Late Surendra Pradhan Aged About 32 Years R/o Railway Colony, Dongargarh, District Rajnandgaon Chhattisgarh.

---- Respondents

For Petitioner : Shri UNS Deo, Govt. Advocate

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Chief Justice.****28/08/2015**

1. The present application assails acquittal of the Respondents of the charge under Section 20 (B)(II)(c) of the Narcotic Drugs and Psychotropic Substance Act, 1985 (for short, NDPS Act) by the Special Judge (NDPS Act) Rajnandgaon in C.I.S. No. 15 of 2013.
2. Learned counsel for the State submits that there has been misappreciation of evidence. The fact that narcotic drugs were recovered from the Respondents has not been properly appreciated by the Trial Judge. The vehicle in which they were traveling was also seized. The drugs were more than small quantity but lesser than commercial quantity. They were weighed in front of the Respondents and samples taken which was also sent to the Forensic Laboratory confirming it was narcotics. Reliance has also been placed on 2014(5)SCC 345 (State of

Rajasthan Vs. Parmanand) to submit that there was need for compliance with Section 50 of the NDPS Act if the vehicle was being searched.

3. We have considered the submissions on behalf of the State.
4. The Trial Judge has rightly held that the Act raising a presumption against accused had to be interpreted strictly. Several lacunas have been found in the prosecution's case. Suffice it to observe only one of them that if the vehicle and the persons are both searched Section 50 of the NDPS Act will have to be complied with as also held in Parmnand (Supra) also . The finding of the Trial Judge is that in the present case the Respondents in person were searched with compliance of Section 50 of the NDPS Act.
5. We find no merit in the Application.
6. The Application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE