

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 36 of 2016**

State of Chhattisgarh through District Magistrate, Rajnandgaon,
Chhattisgarh.

---- Petitioner**Versus**

Laxman Das S/o Chainsingh Sahu, aged about 76 years, village
Sahaspur, Police Station Dongargarh, District Rajnandgaon,
Chhattisgarh

---- Respondent

For Petitioner/State : Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23/08/2016**

The present CrMP has been preferred seeking leave to appeal against the judgment of acquittal dated 16.09.2015 passed by the Court of Special Judge (NDPS Act), Rajnandgaon in Special Case No.13/2014 whereby the respondent has been acquitted from the offence under Section 20 (a) (i) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act').

2. The facts in brief are that on 27.06.2014 at around 6.15 p.m. a search was conducted at the courtyard of the house where the respondent was staying and during the course of search, 14 plants of cannabis were seized weighing 2 Kg. After completing the formalities and mandatory requirements under the provisions of the Act, the matter was put to trial before the Court of Special Judge (NDPS), Rajnandgaon in Special Case No. 13/14.

3. After conclusion of the trial, the Court below vide its judgment dated 16.09.2015 found that the prosecution has failed to prove its case beyond all reasonable doubt for the offence under 20 (a) (i) of the Act and giving

benefit of doubt to the respondent acquitted him of the said offence leading to the filing of the present CrMP seeking leave to appeal.

4. Counsel appearing for the State/petitioner submits that the Court below has failed to appreciate the evidence that has come on record particularly that of PW-7 the Patwari as well as PW-6 the Investigating Officer who have specifically proved the fact before the Court below that the place from where the cannabis plants were seized belonged to the respondent. He further submits that the Investigating Officer in his statement has specifically proved that the plants which were seized appear to be that of Ganja and therefore the case of the prosecution stands proved which have not been appreciated by the Court below while acquitting the respondent from the offence under Section 20 (a) (i) of the Act. Thus, counsel for the petitioner prays for grant of leave to appeal.

5. However, a perusal of the record clearly reflects that the prosecution has miserably failed to prove its case before the Court below by way of cogent evidence to establish the fact that the plants which are said to have been seized from the courtyard of the house where the respondent was staying were in fact the cannabis plants. The prosecution has not been able to obtain the FLS report establishing the fact that the plants were that of cannabis. In absence of the same, the entire case of the prosecution stands collapsed. Further, the prosecution has also not been able to establish by leading proper & cogent evidence before the Court below that the place where the plants were found to have been grown allegedly by the accused-respondent was in fact the land belonging to the accused. The only evidence which is being relied upon by the State is PW-7, the Patwari who in his report has stated that the place was near the house where the respondent used to reside. This by itself would not establish the case of the prosecution that the house where the respondent was residing was in fact his own house and that whether there were other

inmates in the house. It is also not established whether the house belonged to some other person in the family or not. In the absence of the specific details on the part of the prosecution, it creates doubt in the mind of the Court and the benefit of which has already been granted by the Court below while acquitting the respondent of the charge levelled against him which cannot be easily brushed aside without any cogent and substantial evidence on the part of the prosecution.

6. Thus, no strong case is made out by the State for interfering the judgment of acquittal dated 16.09.2015 passed by the Court of Special Judge (NDPS Act), Rajnandgaon in Special Case No.13/2014. Accordingly, the application

7. Accordingly, the instant CrMP being devoid of merit deserves to be and is rejected.

Sd/-
(P. Sam Koshy)
JUDGE