

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.140 of 2018**

1. Wilsan Anant, S/o Sadhe Lal, aged about 20 years, R/o Village Kasdol (Sarkhor), Police Station Kasdol, present address Amanaka Chowk, Raipur, District Raipur, Chhattisgarh
2. Rahul Ogare @ Anurag S/o Ashok, aged about 19 years R/o Village Kharora, Police Station Kasdol, present address Amanaka Chowk, Raipur, District Raipur, Chhattisgarh

---- Applicants**versus**

State of Chhattisgarh through Police Station Sankra, District Mahasamund, Chhattisgarh

--- Respondent

For Applicants	:	Shri G.I. Sharan, Advocate
For State/Respondent	:	Shri Neeraj Kumar Sharma, Deputy Government Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****13.2.2018**

1. With the consent of Counsel for the parties, the revision is heard finally and decided at the motion stage itself.
2. This revision has been preferred against the order dated 20.12.2017 passed in Special Case No.H09 of 2014 by the Special Judge (N.D.P.S. Act), Mahasamund whereby the Special Judge has dismissed the application of the Applicants seeking production of the Ganja packets and sample packets of Ganja in the Court.
3. A trial under Section 20(b) of the N.D.P.S. Act is going on in the Court of Special Judge (N.D.P.S. Act), Mahasamund. During the pendency of the trial, the Applicants moved an application for verification of alleged contraband article Ganja before the Court which has been rejected vide the impugned order dated 20.12.2017. Hence, this revision on the ground that the Trial Court has rejected the application without applying judicial mind on the application. The Learned Trial Judge has taken a ground for

rejection of the application that under Section 52A of the N.D.P.S. Act the alleged Ganja has been destroyed in presence of the Executive Magistrate Pithora, but in the Court evidence, the Executive Magistrate Pithora has denied the same fact of destroying of Ganja. In these circumstances, production of the said Ganja and sample packets are necessary to decide the case.

4. The State Counsel supported the impugned order and submitted that since the seized Ganja and sample packets have been destroyed by the Executive Magistrate under Section 52A of the N.D.P.S. Act and, therefore, it is not possible to produce them before the Court. Hence, the order is proper.
5. I have heard Counsel for the parties and perused the impugned order and the revision petition.
6. From the impugned order itself, it is clear that the seized Ganja was destroyed under Section 52A of the N.D.P.S. Act and some documents and photographs have also been annexed with the said case regarding destroying of Ganja. The application for production of Ganja was rightly rejected on this ground. Though PW4, Dulichand, Executive Magistrate, before whom Ganja is said to have been destroyed, has stated in cross-examination that Ganja was not destroyed before him nor he is aware of the place where the said Ganja is kept. Submission regarding what will be the effect of this statement of Dulichand can be made before the Trial Court at the time of final arguments of the case. Since as per the record Ganja was destroyed under Section 52A of the N.D.P.S. Act, it is not possible for the prosecution to produce the same before the Trial Court. Thus, the finding of the Trial Court is just and

proper.

- 7.** I find no merit in the revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
Judge