

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 90 of 2009**

- State of Chhattisgarh through Station House Officer Dhumka, District Rajnandgaon (CG).

---- Appellant

Versus

- Vimla Bai W/o Mukund Marar aged about 58 years R/o Dhumka, District Rajnandgaon (CG).

---- Respondent

For the appellant/State : Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****24-09-2018.**

1. This acquittal appeal is preferred against the judgment dated 18-6-2006 passed by the Special Judge (under Narcotic Drugs and Psychotropic Substances Act, 1985) (for short, "the Act, 1985") Rajnandgaon in Special Case No. 14 No 2006 wherein the said Court has acquitted the respondent for commission of offence under Section 20(b) (ii)(B) of the said Act, 1985.
2. As per prosecution case, house of the respondent was searched on 4-2-2005 at 7.50 pm at village Lochanbadi and on search contraband article was found which was seized and sent to Forensic Science

Laboratory, Raipur and test of Ganja was found positive. The quantity of the said article was 5 kgs and 835 grams.

3. PW/9 Lochan Pandey is Police Inspector and Investigating Officer of the case. As per version of this witness he searched the house of the respondent and seized contraband article, but from his evidence it is not clear as to how many persons are residents of the said house and it is also not clear whether the respondent was inclusive possession of the said house or not, therefore, the trial Court opined that it is not proved that the house in question was in sole occupation of the respondent and she was in possession of contraband article. As per version of this witness, he deposited the property in Police Station Gumka (para 5) and it is not clear as to whom the property was handed over for safe custody. No Malkhana register was produced before the trial court and no entry was proved before the trial Court. In absence of Malkhana register, it is not proved that the property was kept in Malkhana for safe custody. Again it is not proved that property which is seized is withdrawn from Malkhana and same is sent for examination to FSL, therefore, it is not proved that

property which is seized is sent for chemical examination, therefore, report of FSL cannot be used against the respondent.

4. The trial Court has assessed the entire evidence in its true perspective and came to conclusion that commission of offence is not established. This court has no reason to substitute contrary finding.
5. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju