

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.863 of 2018**

- State Of Chhattisgarh Through Police Outpost Naila, Police Station Janjgir, District Janjgir Champa, Chhattisgarh.

---- Petitioner**Versus**

- Durga Prasad Rathore @ Rajaram S/o Late Sahdev Prasad Rathore Aged About 45 Years R/o Sarkhon, Ward No. 1, Police Outpost Naila, Police Station Janjgir, District Janjgir Champa, Chhattisgarh.

---- Respondent

 For the Petitioner/State : Shri Vivek Sharma, Govt. Advocate
 For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****24.10.2018.**

1. Heard on application for grant of leave to appeal under Section 378(3) of CrPC.
2. This appeal has been preferred against judgment of acquittal dated 12.01.2018 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985, Janjgir Champa (CG) in NDPS Case No.18/2017 wherein the said Court acquitted the respondent of the charges under Section 20(b)(ii)(B) of the NDPS Act for illegal possession of contraband article ganja measuring 2.200 kg at village Sarkhon, Police Outpost Naila, Police Station Janjgir, Distt. Janjgir-Champa
3. In the present case, seizure was conducted by Sub-Inspector Mahadevram Chouhan (PW-12). As per the version of this witness, the article was found in the veranda of the house of

the respondent but in his cross-examination this witness has admitted that the house was open at the time of the seizure and other family members were also the residents of the said house. He has accepted that no record of right or ownership of the respondent of the said house was produced before the trial Court. From the evidence it is not clear that the house in which the article was seized was in exclusive possession of the respondent and the article found in the said house was in exclusive possession of the respondent. The prosecution is under obligation to prove that the respondent was in conscious possession of the contraband article ganja but that is not proved in the present case.

4. The trial Court has elaborately discussed the entire evidence and found some irregularities during investigation and further opined that the charges are not established. This Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the case.

5. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE