

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 21 of 2018**

State of Chhattisgarh, Through The Incharge Police Station Kotwali,  
District- Jashpur (C.G.)

---- **Petitioner**

**Versus**

Gopal Ram, S/o Late Manihar Ram, Aged About 40 Years, Caste  
Uraon, R/o Village Komado, Police Station Jashpur, District- Jashpur  
(C.G.)

---- **Respondent**

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For State/ Petitioner : Mr. Vinod Kumar Tekam, PL.

For Respondent : Mr. Manoj Chouhan, Advocate.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board**

**10/10/2018**

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition which is supported with an affidavit of Arjun Kumar Kurrey.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 60 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 07.06.2017 passed by Special Judge (NDPS Act), Jashpur (C.G.) in Special Case No. 08/2016, wherein the said court acquitted the respondent for commission of offence under Section 20(a)

(i) of the Narcotic Drugs & Psychotropic Substances Act, 1985 for cultivating cannabis plant.

5. Assistant Sub-Inspector Ishwar Prasad Barle (PW-7) is the person who seized two plants from field namely Pokhra Bagan. The respondent has been charge-sheeted on the basis of said seizure. Revenue record filed by the prosecution shows that the said plot is recorded in the name of Jagdev and others. In that record, name of the respondent is not mentioned. No one examined to establish that respondent was in exclusive possession of the land in question from which the cannabis plant was seized. Even his name is not clearly recorded in revenue record, therefore, there is no evidence to establish that respondent was in possession of the said land.
6. When possession of the respondent is not established, there is no evidence that respondent is the person sown seeds of cannabis plant on that field and thereafter, did all the activities of cultivation for growing the plant. In absence of any evidence, it is not established that respondent has any role to play in cultivation of cannabis plant.
7. The land is open land in which the seeds of cannabis plant can grow of its own and it may be sprouted of its own without help of anyone. When the seeds are grown without help of anyone, it cannot be said that anyone has cultivated the field for growing cannabis plant.

8. The trial court has elaborately discussed the entire evidence adduced by the prosecution and came to conclusion that cultivation by the respondent is not established. After reassessing the entire evidence, this Court has no reason to substitute any contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
9. Consequently, the petition stands dismissed at motion stage itself.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge