

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 362 of 2014**

- State Of Chhattisgarh Through The District Magistrate, Distt. Bilaspur C.G., Chhattisgarh

**---- Petitioner**

**Versus**

- Pramod Kashyap S/o . Arjun Kashyap Aged About 31 Years R/o. Vill. Basha, P.S. Seepat, Distt. Bilaspur C.G., Chhattisgarh

**---- Respondent**

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| For Petitioner/State | : | Shri Subhash Yadav, Dy. G.A. |
| For Respondent       | : | Ms. Shivali Dubey, Adv       |

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**DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Hon'ble Smt. Justice Rajani Dubey**

**Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava**

**02.05.2019**

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal.
5. Learned counsel for the State would argue that not sending the information as required under Section 42 Sub-Section 2 of the NDPS Act, by itself, would not render the proceeding of recovery of contraband doubtful. He would submit that the finding of the learned trial Court that there was violation of provisions contained under Section 57 of the NDPS Act, does not vitiate the proceedings unless the accused established any prejudice on account of such violation.
6. We have gone through the impugned judgment of acquittal, and the evidence on record and order of acquittal to respondent/accused by giving benefit of doubt. The learned trial Court has taken into consideration that there is total non-compliance of provisions contained under Section 42 Sub-Section 2 of the NDPS Act. Moreover, learned trial Court, after close scrutiny of oral and

documentary evidence on record led by the prosecution has also recorded a finding that the prosecution has failed to prove proper sealing, safe custody and that prosecution failed to prove as to who had taken contraband to FSL.

7. Taking into consideration these material aspects, the learned trial Court has granted acquittal by giving benefit of doubt and the view which has been taken by trial Court is a plausible view based on the evidence on record. We do not find that in arriving at the conclusion the learned trial Court has either ignored from consideration, incriminating evidence led by the prosecution or failed to apply the correct legal position. Therefore, taking into consideration the limited scope of interference against the judgment of acquittal, we, accordingly, do not consider present to be a fit case to grant leave to appeal.
8. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-  
**(Manindra Mohan Shrivastava)**  
Judge

Sd/-  
**(Rajani Dubey)**  
Judge