

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 198 of 2009**

State of Chhattisgarh, through: The District Magistrate, District:
Rajnandgaon (C.G.)

---- Appellant

Versus

Harpal Singh @ Bablu Bhatiya, S/o Shri Guru Bachan Singh
Bhatiya, aged about 30 years, R/o Behind Purana Bus Stand,
Dongargarh, P.S. Dongargarh, District- Rajnandgaon (C.G.)

---- Respondent

For State/ Appellant : Mr. Ravish Verma, Govt. Advocate.

For Respondent : Mr. Ajit Singh, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

14/01/2019

1. This acquittal appeal is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against judgment dated 21.03.2006 passed by Special Judge, NDPS Act, Rajnandgaon (C.G.) in Special Case No. 18/2006, wherein the said court acquitted the respondent for commission of offence under Section 20(b)(ii)(C) of Narcotic Drugs & Psychotropic Substances Act, 1985 for having illegal possession of contraband article ganja measuring 25 Kg. on 13.06.2005.
2. From evidence of Constable- Jaipal Ambade (PW-6), Sub-Inspector- C.R. Thakur (PW-9), it is established before the trial court that one house was searched which was locked and lock was broken in the presence of the police personnel. After breaking the lock, the witnesses entered into the house where three bags of contraband article ganja was seized. The only question for consideration before this Court is whether the said

premises is within exclusive possession of the present respondent.

3. Ramesh Kumar Ramteke (PW-4) is Revenue Inspector who prepared site map but, he is not in a position to say as to in whose name the house is recorded. Though, he deposed before the trial court that adjoining house belongs to the present respondent, but the contraband article is not seized from the adjoining house, but it is seized from the house which was locked. Unless the prosecution establishes by cogent evidence that the said locked house was in exclusive possession of the present respondent, charge leveled against him is not proved.
4. Looking to the entire evidence, the trial court opined that even in adjoining house, a number of persons are residing with the present respondent and there is no evidence that the house in question is in exclusive possession of the respondent. The finding arrived at by the trial court is based on relevant material placed on record and the same is not based on irrelevant or extraneous material.
5. After reassessment of entire evidence, this Court has no reason to record contrary finding.
6. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge