

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.524 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Malkharauda, District - Janjgir-Champa Chhattisgarh.

---- **Petitioner****Versus**

- Baranlal Gabel S/o Hariprasad Gabel Aged About 55 Years R/o Village Parsa, Police Station Malkharauda, District - Janjgir - Champa Chhattisgarh.

---- **Respondent**-----
For the Petitioner/State : Shri AN Bhakta, Dy. Advocate General

For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****05.4.2019.**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.

2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 60 days in filing the petition is hereby condoned.

3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.

4. This petition is preferred against the judgment of acquittal dated 25.7.2018 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'Act 1985'), Janjgir Champa (CG) in NDPS Case No.80/2016 wherein the said Court acquitted the respondent for the charges under

Section 20(b)(ii)(B) of the Act, 1985 for illegally possessing ganja to the tune of 2.100 Kg.

5. In the present case, though Assistant Sub Inspector NS Rajput (PW-6) deposed before the trial Court that seized articles were handed over to the Incharge Malkhana for safe custody of the same and the samples were also handed over to him but the Incharge of the Malkhana was not examined before the trial Court. Therefore, it is not clear from the entire evidence that the property seized is kept under the safe custody in the Malkhana and again it is not established that the samples which were given to the Incharge of the Malkhana was withdrawn for examination of the same in the Forensic Science Laboratory. Crucial link is missing, therefore, it cannot be held that the samples which were seized in the present case were really sent to FSL for examination. In absence of evidence, it cannot be held that the report of the FSL is a report of the samples which were seized in the present case. The trial Court has elaborately discussed the entire evidence and recorded finding that crucial evidence is lacking in the present case, therefore, the respondent is entitled for acquittal. After reassessing the entire evidence, 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 matter.

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

Sd/-
(Ram Prasanna Sharma)
JUDGE