

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.32 of 2009**

The State of Chhattisgarh Through District Magistrate Bastar
(CG)

---- Appellant

Versus

Ram Kripal Patel, S/o. Late Nand Kishore Patel, aged about
58 years, R/o. Patimari, PS Churhat, Distt. Sidhi (MP)

---- Respondent

For the Appellant/State : Shri AN Bhakta, Dy. Advocate General
For the Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board**05.4.2019.**

1. This appeal is directed against judgment of acquittal dated 23.01.2009 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act 1985') (CG) in Special NDPS Case No.07/2008 wherein the said Court acquitted the respondent for the charges under Section 20(b)(ii) (B) of the Act, 1985 for illegal possession of contraband article ganja to the tune of 17 kg.

2. Assistant Sub Inspector KD Singh (PW-5) conducted search and seizure in the present case. As per the version of this witness, he made search on the respondent but admitted that original notice supplied to the respondent under Section 50 of the Act 1985 was not produced before the trial Court. Therefore, the trial Court opined that provision of Section 50 of the Act 1985 is flouted which a glaring mistake and cannot be cured. Again he

admitted that specimen seal was not affixed on the samples separated from the seized article. As per Section 55 of the Act, the property should be kept in safe custody in Malkhana after seizure. But when the seal is not affixed by this witness the property was not kept in the safe custody of the Malkhana, Section 55 of the Act 1985 is also flouted with. Looking to the non compliance of the provisions of the act, the trial Court opined that the evidence adduced by the prosecution is not reliable and recorded finding of acquittal.

3. After reassessing the entire evidence, this Court has no reason to substitute a contrary finding. It is not a case where the finding of the trial Court can be reversed.

4. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE