

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1153 of 2019

State of Chhattisgarh, Through: The Station House Officer, Police
Station Khursipar, District- Durg (C.G.)

---- Petitioner

Versus

1. Pintu Sahni, S/o Kanhaiya Sahni, aged about 24 years, R/o In front of Panchsheel School, Street No. 25, Qtr. No. 4/H, Zone-1, Khursipar, P.S. Khursipar, District- Durg (C.G.)
2. Chandrashekhar Banjare, S/o Shyamlal Banjare, age 35 years, R/o Village- Tendu, Thankhamhariya, District- Bemetara (C.G.)

---- Respondents

For State/ Petitioner : Mr. Ishwar Jaiswal, Panel Lawyer.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

16/10/2019

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 23.10.2018 passed by Special Judge (NDPS), Durg (C.G.) in NDPS Special Case No. 28/2016, wherein the said court acquitted the respondents for commission of offence under Section 20(b)(ii)(B) of Narcotic Drugs & Psychotropic Substances Act, 1985 for possessing contraband article ganja to the tune of 6kg. on 12.09.2016.
3. In the present case, the respondent was charge-sheeted for possession of contraband article ganja to the tune of 6 kg. Case of the prosecution is based on statement of Kaushal Kishore

Wasnik (PW-9) who is police inspector of Police Station-Khursipar. As per version of this witness, he seized contraband article from Scorpio vehicle bearing registration No. CG04 CZ-2700 in which respondent No. 1- Pintu Sahni was sitting. Again, he seized contraband article from motorcycle Glamour bearing registration No. CG25- 4146 in which respondent No. 2- Chandrashekhar Banjare was sitting. This witness admitted in his statement (Para 46) that he seized contraband article from four persons on the said date i.e. on 12.09.2016, but as per his version, he has not made any identification mark over samples prepared after seizure from the four persons. It means, no identification mark was made in the packet which is alleged to be seized from both the respondents. On that day, this witness seized contraband article from four persons, but in no sample packet, any identification mark was made, therefore, it is not clear that as to which packet is related to seizure from both the respondents and which packet is related to seizure from other two persons. When no identification mark is made after seizure on the packet, the Forensic Science Laboratory report regarding packet A,B,C & D cannot be concluded to be the article seized from both the respondents.

4. The trial court has elaborately discussed the entire evidence adduced by the appellant side and recorded finding that the charges leveled against the respondents are not established. After reassessing the same, it appears that it is not a case where any interference of this Court is required. It is also not a case where respondents should be called for hearing again for full

consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

5. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun