

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1279 of 2018**

State of Chhattisgarh, Through: Station House Officer, Police
Station: Janjgir, District- Janjgir-Champa (C.G.)

---- **Petitioner**

Versus

Ganga Ram Kashyap, S/o Harprasad Kashyap, aged about 44
years, R/o Nawapara, Police Station- Janjgir, District- Janjgir-
Champa (C.G.)

---- **Respondent**

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

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

07/02/2019

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 51 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 31.01.2018 passed by Special Judge (NDPS), Janjgir-Champa (C.G.) in NDPS Case No. 05/2017, wherein the said court acquitted the respondent for commission of offence under Section 20(a) of

Narcotic Drugs & Psychotropic Substances Act, 1985 (For short “the Act, 1985”) for cultivating cannabis plant.

5. To substantiate the charge, the prosecution examined as many as 10 witnesses. No one deposed before the trial court that the respondent participated in any manner in growing the cannabis plant, therefore, it is not established that the respondent did anything in contravention of provisions of the Act, 1985 in cultivating cannabis plant right from the beginning.
6. From the evidence, it is not clear that how the plant exist in the land as alleged to be the land of the respondent. There is every possibility of sprouting the plant of its own without help of anyone. Sprouting of its own is not cultivation by anyone. The prosecution was under obligation to establish that the respondent was participated in any manner in growing the plant like pouring of seeds, irrigation, providing fertilizer and so on, but that is not done and total case of the prosecution is based on seizure of plant from the land of the respondent. Seizure itself is done within an hour time. An hour time is not sufficient in growing any plant, therefore, mere seizure is no evidence of cultivation.
7. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing

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

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

Sd/-
(Ram Prasanna Sharma)
Judge

Arun