

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1601 of 2019**

State of Chhattisgarh, Through- Police Station Supela,
District- Durg (C.G.) **---- Petitioner**

Versus

1. Sekhar Gurde, S/o- Salik Ram, Aged about- 26 years, R/o- Near Chota Pul, Kosa Nagar, Supela, District- Durg (C.G.)
2. Jitendra Pradhan, S/o- Bahru Pradhan, Aged about- 30 years, R/o- Badgomuda, Police Station Tushra, District- Ballangir, Orissa
3. Dhiraj Ramteke, S/o- Rishi Ramteke, Aged about- 40 years, R/o-Camp- 2 Baikunthdham, Police Station Chavani, District- Durg (C.G.)

---- Respondents

For State/ petitioner : Mr.Afroj Khan, P.L.

For Respondents : Mr. Ganesh Burman, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****05/11/2019**

1. Heard on I.A No.1/2018, which is an application for condonation of delay in filing the instant 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 113 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 the judgment dated 30th

November, 2018 passed by the Learned Special Judge (N.D.P.S.), Durg (C.G.) in N.D.P.S. Special Case No. 22/2017, wherein the said Court acquitted all three respondents for commission of offence under Sections 20 (b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 for having possession of illegal contraband Ganja.

5. In the present case, the case of prosecution is based on statement of the Assistant Sub Inspector- Dilip Kumar Singh (PW-9), who conducted the seizer. As per version of this witness, when he reached to the spot he found all the three respondents were sitting in a Swift Car, bearing registration No. OR 03/D-9105, as per version of this witness all the three respondents were in possession of one plastic bag in car from where contraband article Ganja was seized, but in Trial Court Investigating Officer (PW-9) deposed that all the three respondents were standing outside the car. From the statements of this witness, it is contradictory that where the articles were seized from physical possession of the respondents.
6. Again, when seized article were handed over to the in-charge of Malkhana, it is not mentioned in the acknowledgment that as to how many packets are handed over to the In-charge of Malkhana. The Trial Court after elaborately discussed the evidence recorded finding that preparation of samples of contraband Ganja packets are

under cloud, therefore, it cannot be said that samples which were sent to the Forensic Science Laboratory are the same, which were seized on the spot. Therefore, report of the Forensic Science Laboratory cannot be used against the respondents.

7. After going through the records, this Court has no reason to record contrary finding. It is not a case where interference of this Court is required with the judgment passed by the Trial Court, it is not a case where respondents should be called for hearing again for full consideration of this petition.
8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge