

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1705 of 2019

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

Versus

Narayan Yadav, S/o- Pito Yadav, Aged about- 30 years, R/o-
Village Kadro (Fittingpara), P.S.- Bagbahar, District- Jashpur
(C.G.) **---- Respondent**

For State/petitioner : Mr. Ishwar Jaiswal, P.L.

For Respondent : Mr. Umakant Singh Chandra, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

05/11/2019

1. Heard on I.A. No. 1/2019, 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 907 days in filing the petition is condoned.
3. 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 3rd October, 2016 passed by the Learned Special Judge (N.D.P.S.) Jashpur (C.G.) in NDPS Special Case No. 03/2016, wherein, the said Court acquitted the respondent for commission of offence under Sections 20 (b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

5. In the present case, as per Ex.P-32 the contraband article Ganja was seized from the house of respondent on 22nd March, 2016. No documents were produced before the Trial Court that house is solely owned by the respondent. The Investigating Officer Sub Inspector- Mr. Malik Ram Chouhan (PW-9) deposed before the Trial Court that he was not aware of the fact that how many members of the family were residing in the house. In the absence of any document of ownership of the house and looking to the statement of the Investigating Officer, it is clear that house is not in exclusive possession of the respondent, when contraband article was seized from the house. The prosecution was under obligation to establish that the house was in sole possession of the respondent but that was not established before the Trial Court, that is why the Trial Court recorded finding of acquittal.
6. 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.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
 Judge