

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2173 of 2018**

State of Chhattisgarh, Through the Station House Officer, Police
Station Balrampur, District- Balrampur -Ramanujganj (C.G.)

---- **Petitioner**

Versus

Budhna Kodaku, S/o Fadad Kodaku, Aged About 25 Years, R/o
Village- Kotapali, Koynardipa, P.S.- Balrampur, District- Balrampur-
Ramanujganj (C.G.)

---- **Respondent**

For State/ Petitioner : Mrs. Shubha Shrivastava, P.L.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

14/02/2019

1. Heard on I.A. No. 01/2019, 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 577 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 26.11.2016 passed by Second Additional Judge, Ramanujganj to the court of Additional Sessions Judge, Ramanujganj, District- Surguja

(C.G.) in Session Trial No. R 40/2016, wherein the said court acquitted the respondent for commission of offence under Section 25(1-A)(B)(b) of the Arms Act, 1959 and Sections 4 & 5 of the Explosive Substances Act, 1908.

5. The respondent has been charge-sheeted on the ground that Police Inspector- C.S. Chandrakar (PW-5) seized one rifle, 150 grams ammunition and kartoos from a house which is alleged to be in occupation of the respondent. No record of right was produced before the trial court that the house in question is owned by the respondent or he is in exclusive possession of the said house. No revenue authority is produced before the trial court to establish ownership or possession of the respondent of the said house. It is also not established that the house in question was in exclusive possession of the respondent and no one except the respondent was residing in the said house. Key of the house is not seized from the respondent.
6. After evaluating the entire evidence, the trial court came to conclusion that the possession of the respondent for the said article is not established and again, it is not established that the articles were kept in safe custody before examination.
7. The finding arrived at by the trial court is based on relevant material placed on record and the same is not based on irrelevant or extraneous material and 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