

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Misc. Petition No.2215 of 2018**

- State Of Chhattisgarh Through Police Station- Kotwali, Distt. Rajnandgaon, Chhattisgarh.,

---- **Petitioner****Versus**

- Mohammad Aarif Sheikh S/o Sheikh Dilwar Aged About 38 Years R/o Joginagar, Basantpur, Police Station Basantpur District Rajnandgaon Chhattisgarh.

---- **Respondent**

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 For the Petitioner/State : Shri Ravish Verma, Govt. Advocate  
 For the respondent : None  
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**Hon'ble Shri Justice Ram Prasanna Sharma**  
**Order On Board**

**08.01.2019.**

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 105 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment of acquittal dated 20.3.2018 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985, Rajnandgaon (CG) in Special Case No.01/2016 wherein the said Court acquitted both the respondent for the charges under Section 20(b)(ii)(B) of the Act, 1985.

5. In the present case Investigating Officer is Police Inspector Rupak Sharma (PW-8). As per the version of this witness, after seizure of the contraband article, he prepared two samples and marked them as A1 & B1 and the same were sent for chemical examination to Forensic Science Laboratory. But from the report of the said Laboratory, it appears that the packets marked as A1 & B1 were not examined but the packets marked as A & B were examined by the laboratory. It is not clear from the evidence of the said Police Officer whether the packets A & B were seized in the crime in question. When the packets A1 & B1 were seized in crime in question and the same were not sent to laboratory, the report submitted before the trial Court is not the report of the article seized in the present case.

6. The trial Court has elaborately discussed the entire evidence and came to a conclusion that the report of the laboratory cannot be used against the respondent and therefore, there is no evidence that the seized articles were the contraband article ganja.

7. After reassessing the entire evidence, this Court has no reason to substitute a contrary finding. It is not a case where the respondent should be called for full consideration of the petition.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-**  
**(Ram Prasanna Sharma)**  
**JUDGE**