

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.436 of 2018**

- State Of Chhattisgarh Through Police Station Lundra, District Sarguja Chhattisgarh.

---- Appellant**Versus**

- Murari Lal Choubey S/o Shri Teerathraj Choubey, Aged About 28 Years R/o Village Gangapur, Dhanouli, Police Station Lundra Distict Sarguja Chhattisgarh.

---- Respondent

For the Appellant/State : Shri AN Bhakta, Dy. Advocate General

For the Respondent : Shri Dashrath Prajapati, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****27.3.2019.**

1. This appeal is directed against judgment of acquittal dated 19.3.2018 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'the Act 1985') Ambikapur (CG) in Special Criminal NDPS Case No.06/2016 wherein the said Court acquitted the respondent for the charges under Section 22(b) of the Act, 1985.

2. The respondent was charge sheeted for possession of psychotropic substance Brown Sugar (Diacetyl Morphine) measuring 11.250 gm on 17.6.2016 at about 17.30 hours at Gangapur Square within the jurisdiction of Police Station Lunda Distt. Suguja.

3. As per the version of the prosecution, specimen seal mentioning PS Lunda was affixed in the sample of article seized in crime question. But when the packet is sent to FSL for chemical

examination, in the report (Ex-P/37) received from the said laboratory the specimen seal was found as Green Field BS. When specimen seal in the sample of seized article was affixed as PS Lundra, how the seal is changed as Green Field BS while the sample is submitted before the laboratory is not clarified by the prosecution before the trial Court which is glaring deficiency found for the case of the prosecution. Looking to the controversy in the specimen seal, it appears that the sample which was seized and in which the specimen seal PS Lundra was affixed was not sent to the laboratory. If the sample of the seized article is not sent to the laboratory then the report submitted by the laboratory cannot be used against the appellant. If the report of the laboratory is not used against the appellant then there is nothing on record to hold that the article seized was Brown Sugar (Diacetyl Morphine). Looking to this aspect of the matter, the trial Court opined that the charges levelled against the respondent is not established. After reassessing the entire evidence, this Court has no reason to substitute a contrary finding.

4. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE