

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 17 of 2019

- State Of Chhattisgarh Through The Police Station, Pathariya, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Petitioner

Versus

- Prakash Kurre S/o Shri Mannalal Kurre Aged About 19 Years Outpost Sargaon, Police Station Pathariya, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

– Respondent

For State/ petitioner : Mr. Raghvendra Verma, Govt. Advocate.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

18/02/2019

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 18th September 2018 passed by Special Judge under Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter the Act of 1985) Mungeli (CG), in Special criminal case No. 2 of 2018 where in the said court acquitted charge u/s 20(1) (a) of the Act of 1985 for possessing one plant of cannabis/Ganja in his kitchen garden situated at village Dauna, Police Station Pathariya, District Mungeli.
3. The respondent is charge-sheeted for cultivation of cannabis plant. No record of right was produced before the trial court that the land where the plant is found, is in exclusive possession of the respondent. No one is examined before the

trial court who has seen the respondent cultivating the cannabis. Cultivation of cannabis includes sowing of seeds, irrigation, providing of fertilizer and so on. From the evidence it is not established that the plant is grown because of any act of the respondent and if plant has sprouted of its own, same cannot be termed as cultivation of cannabis by the respondent.

4. In absence of any evidence regarding participation of the respondent in cultivation of said plant, the charges are not established.
5. 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 a 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.
6. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge