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**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Misc. Petition No.32 of 2019**

- State Of Chhattisgarh Through The Police Station Antagarh, District Kanker Chhattisgarh,

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

1. Vishnuram Thakur S/o Ganeshram Aged About 70 Years R/o Village Chargaon, Police Station Siksod, District Kanker Chhattisgarh
2. Padamsingh Diwan S/o Heeralal Diwan Aged About 60 Years R/o Village Bhainsasur, District Kanker Chhattisgarh

**---- Respondents**

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For the Petitioner/State : Shri Raghavendra Pradhan, Govt.  
Advocate

For the respondent : None

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**Hon'ble Shri Justice Ram Prasanna Sharma****Judgment On Board****18.02.2019.**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. On due consideration, the application is allowed and the delay of 198 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 is preferred against the judgment of acquittal dated 22.02.2018 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act, 1985'), North Bastar Kanker (CG) passed in Special Case No.53/2016 wherein the said Court acquitted the respondents for the charges under Section 20(b)(ii)(B) of the Act, 1985 for illegally

possessing 4.500 kg by accused respondent Vishnu Ram and 4 kg by accused respondent Padamsingh Diwan.

**5.** To substantiate the charges, the prosecution has examined as many as 13 witnesses. From the evidence it is established that contraband article ganja was seized from the luggage kept in a jeep in which 20 persons were travelling with their luggage. No one deposed before the trial Court that said bags were kept by any of the respondents in the said jeep. Therefore, direct evidence against the respondents for keeping the bags in the jeep in which the contraband article was found is lacking. All the bags were openly kept in the said jeep and it is not a case where any discovery statement was required for search of any article. Though Inspector Nitesh Sharma (PW-13) deposed that the respondents admitted the bags of their own, but said part of the evidence is inadmissible in evidence in view of Section 25 of the Indian Evidence Act, 1872. Other evidence of the witnesses are supporting piece of evidence after seizure of the articles. When a number of persons were travelling and number of luggages were kept in the jeep and there is no clinching evidence against the respondents that they kept the bag in question, the trial court opined that the charges levelled against them is not established. Looking to the entire evidence, this court has no reason to substitute a contrary finding.

**6.** After reassessing the entire evidence, this Court has not reason to record a contrary finding. It is not a case where the respondents should be called for full consideration of the matter.

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

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

Bini