

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.519 of 2020**

- State of Chhattisgarh, Through Police Station Bemetara, District Bemetara (CG)

---- Petitioner

Versus

1. Kishore Sahu, S/o. Devdhar Sahu, Aged about 27 years, R/o. Atal Awas Jamul, Block No.10, Room No.9, PS Jamul, District Durg (CG)
2. Rajkumar Nishad, S/o. Vasudev Nishad, Aged about 26 years, R/o. Atal Awas Jamul, Block No.12, Room No.3 Jamul PS Jamul, District Durg (CG)

---- Respondents

For the Petitioner/State : Shri Afroj Khan, Panel LawyerFor the Respondents : --
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****27.02.2020**

1. Heard on IA No.01/2020 for condonation of delay in filing the petition.
2. On due consideration of the reasons mentioned in the application, the same is allowed and the delay of 20 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 23.10.2019 passed by Special Judge under the

Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act 1985'), Bemetara, Distt. Bemetara (CG) in Special Case (NDPS) No.11/2018, wherein the said Court acquitted the respondents for charges under Section 20(b)(ii)(B) of the Act, 1985 for illegally possessing contraband article ganja to the tune of 6 kg. on 06.02.2016 at about 20.00 hours at Berla to Bemetara road.

5. In the present case, Constable Pradeep Kumar Chaturvedi (PW-9) deposed before the trial Court that he was searching with another Constable Pandey at Village Amora and at that time two persons were coming in a Motor Cycle which was stopped by them and while checking, it was found that contraband article Ganja was kept in the bag. Thereafter they informed the matter to Asst. Sub Inspector Santosh Dhruve who was posted in the police station Bemetara. Contrary to the version of this witness, ASI Santosh Dhruve deposed that he received information from informer that two persons are coming in a motor cycle and they are in possession of the contraband article ganja. From the statement of Santosh Dhruve (PW-6) case of the prosecution is that after receiving the information this witness completed legal formalities and rushed to the spot and thereafter seizure was made. Contrary to this version, Constable Pradeep Kumar

Chaturvedi (PW-9) deposed that they have already seized ganja, therefore, evidence of ASI Santosh Dhruve is contradictory to the statement of Constable Pradeep Kumar Chaturvedi (PW-9). The trial Court after evaluating the contradictory statement recorded finding that charge against the respondents is not established.

6. The view taken by the trial Court is one of the plausible view. It is settled law that if two views are possible, the view which is favourable to the accused/respondent should be accepted. In view of the above, it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where the respondent should be called for full consideration of the case.

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

Sd/-

(Ram Prasanna Sharma)
JUDGE