

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 637 of 2020

State of Chhattisgarh Through - Police Station - Berla, District -
Bemetara Chhattisgarh. **---- Petitioner**

Versus

Digeshwar Sahu, S/o Shri Keshav Ram Sahu, Aged About 19 Years
R/o Village Kharra, Police Station - Berla, District - Bemetara
Chhattisgarh. **---- Respondent**

For State/ Petitioner : Mrs. Smita Jha, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

12.03.2020

1. Heard on I.A. No. 01/2020, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 57 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 01/10/2019 passed by Learned Special Judge (NDPS Act) Bemetara, District- Bemetara (C.G.) in Special Case (N.D.P.S.) No. 13/2017 wherein the said Court has acquitted the respondent for offence under Section 8(c) read with Section 20(B) (ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

5. The trial Court after evaluating the entire evidence recorded finding that there is manipulation in entries of seized article in Malkhana Register therefore, it can not be said sample of contraband article *Ganja* which was taken in the present case was deposited in Malkhana and same was sent to the forensic laboratory for examination. If same sample is not sent to laboratory the conviction cannot be based on laboratory report. After evaluating the evidence trial Court recorded finding that it is a case where prosecution has not proved examination of the sample.
6. View taken by the said Court is one of the plausible view It is settled law that if two views are possible, the view which is favourable to the respondent/ accused, should be accepted. There is nothing on record to convert order of acquittal into conviction.
7. The trial court has elaborately discussed the entire evidence and after going through the record, this Court has no reason to record contrary finding. It is not a case where the respondents should be called for hearing again for full consideration of this petition. It is not a case where trial Court has over-looked the relevant material placed on record. It is also not a case where order of the trial Court is based on extraneous or irrelevant material and it cannot be termed as perverse or unreasonable.

8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle