

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Misc. Petition No.636 of 2018**

State Of Chhattisgarh Through Police Station Dadhi, District  
Bemetara, Chhattisgarh.

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

Surendra Patel, S/o. Vasude Patel, aged about 25 years, R/o.  
Khursipar, Zone No..34, House No.1, BSP area A, Police Station  
Khursipar, Distt. Durg (CG) Permanent R/o. Motipur Tikait,  
Police Station Bhatni, District Devariya (UP)

---- **Respondent**

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For the petitioner/State : Shri Ishwar Jaiswal, Panel Lawyer  
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**Hon'ble Shri Justice Ram Prasanna Sharma****Order on Board****04.02.2020**

1. Heard on application for grant of leave to appeal under Section 378(3) of CrPC.
2. This petition has been preferred against judgment of acquittal dated 14.12.2017 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act 1985'), Bemetara Distt. Bemetara (CG) in the Special Case(NDPS) No.02/2017, wherein the said Court acquitted the respondent for charges under Section 20(b)(ii)(B) of the Act,1985 (wrongly mentioned as Section 20(b)(ii)(A) in the judgment of the trial Court).
3. In the present case, the respondent was charge sheeted for having illegal possession of contraband article Ganja to the tune of 4.400 kg. From the statement of Santosh Dhurve (PW-6), who

was the investigating officer, it is not established that when the seized article was weighed and whether it was sealed after seizure. When the property was deposited in Malkhana for safe custody, it was not sealed. All the articles and samples were not sealed and seizure witnesses have not supported the version of the prosecution. The witnesses of weighing of the article were also not supported the version of the prosecution. When the article was not sealed before depositing the same in the malkhana it cannot be held that the sample is the same which was sent to laboratory for examination. Therefore, report of the laboratory cannot be used against the appellant.

4. The trial Court after evaluating the serious lacuna in the present case, recorded finding of acquittal. After reassessing the entire evidence, this Court is of the opinion that 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.

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

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