

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 713 of 2018**

- State of Chhattisgarh, through- Police Station- Nawagarh, District- Janjgir Champa, Chhattisgarh. ----- **Petitioner**

Versus

- Ramchandra Kashyap, S/o Dev Lal, Aged about 70 years, R/o Village Karra, Police Station- Nawagarh, District- Janjgir Champa Chhattisgarh. ----- **Respondent**

 For State/Petitioner : Shri Dinesh R.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****06/02/2020**

1. Heard on I.A. No. 01/2018, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 01 days in filing the instant 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 the judgment dated 22nd December, 2017 passed by Special Judge (N.D.P.S.), Janjgir- Champa (C.G.) in N.D.P.S. Case No. 10/2016 wherein the said Court acquitted the respondent for charge under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances (N.D.P.S.) Act, 1985 (for short "the Act, 1985") for having possession of contraband article Ganja to the tune of 1 kg 50 grams.

5. Police Officer Sachchidanand Gupta (PW-6) is the prime witness who conducted the search. From version of this witness, the article was seized from a shop, but no document was produced to establish that the said shop was in exclusive possession of the respondent. The shop being open place is accessible to all, therefore, it cannot be said that except the respondent, no one could reach the said shop. The trial Court after evaluating the entire evidence recorded finding that the provisions of the Act, 1985 is flouted with and when there is no evidence regarding sole possession of shop in question of the respondent, it is difficult to bring home the guilt.
6. Finding of 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 respondent/accused should be accepted, therefore, this Court has no reason to record contrary finding regarding commission of offence. It is not a case where respondent should be called for hearing again of this petition.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

**(Ram Prasanna Sharma)
Judge**