

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 223 of 2016

State of Chhattisgarh Through The Police Station Gandai
District Rajnandgaon Chhattisgarh ---- **Petitioner**

Versus

Pardeshi Ram Gond S/o Baratu Gond Aged About 50 Years
R/o Pailimeta, P.S. Gandai, District Rajnandgaon Chhattisgarh.

---- **Respondent**

For State/petitioner - Mr. D.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

24.02.2020

1. Heard on application for grant of leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against the judgment dated 1st of December, 2015 passed by learned Special Judge (N.D.P.S. Act), Rajnandgaon (C.G.), in Special Case No. 17/2014 wherein the said Court has acquitted the respondent for commission of offence under Section 20(B)(2)(a) and 20(A) (1) of the N.D.P.S. Act, 1985 for having possession of illegal contraband article *Ganja* to the tune of 300 gm and one plant of *Ganja* in his field.
3. After assessing the evidence, the trial Court recorded finding that no entry was made in malkhana register regarding depositing of sample of 50 gm *Ganja* and rest article i.e. 250 gm of *Ganja*. Therefore, it is not clear that *Ganja* which was seized in the present case was sent for examination. Report made by the laboratory cannot be used against the present respondent. Again, there is no document that garden from

which plant was seized is in exclusive possession of the respondent. No document regarding possession of garden was produced or proved before the trial Court. The land in question is accessible to all for which, the appellant cannot be held guilty and it cannot be said that same land was in exclusive possession of the respondent.

4. 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.
5. After going through the records, it is not a case where any interference of this Court is required. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent is not established. After reassessing the same, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition.
6. Accordingly, application for grant of leave to appeal is rejected. Consequently, the appeal stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle