

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.2051 of 2019

State Of Chhattisgarh Through its Station House Officer, Police
Station City Kotwali, Durg, Distt. Durg Chhattisgarh.

---- Petitioner

Versus

Bhavesh Jain, S/o. Late Lalit Jain, aged about 19 years, R/o.
Pacharipara, Durg, Distt. Durg, Chhattisgarh

---- Respondent

For the petitioner/State : Shri Dinesh Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Ram Prasanna SharmaOrder on Board26.02.2020

1. Heard on IA No.01/2019 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 157 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 17.12.2018 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'the Act 1985') Durg (CG) in the NDPS Special Case No.13/2017,

wherein the said Court acquitted the respondent for charges under Section 22(b) of the Act, 1985 (for violation of Section 8 of the said Act) for selling prohibited medicines namely Spasmo Proxyvon Plus and Anzylum 0.5.

5. In the present case, no one was deposed before the trial Court who purchased same tablets from the medical shop of the respondent. Therefore, there is no evidence to substantiate the charge that the respondent was selling the prohibited medicines without prescription.

6. No document was produced before the trial court that the respondent is the owner/Director of the said medical shop. Though it is deposed that after passing of the father of the respondent he was the owner of the medical shop, but no document was adduced in this regard. No document was produced that said medicines were purchased by the respondent on behalf of said medical shop. Therefore, possession of the tablets by the respondent was not established and his ownership regarding the medical shop is also not established.

7. The trial Court after evaluating the entire evidence recorded finding of acquittal. 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. After going through the record, 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.

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

Sd/-
(Ram Prasanna Sharma)
JUDGE