

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 1123 of 2017

- State of Chhattisgarh, through- Incharge, Police Station Bijapur,
District- Bijapur (C.G.) ----- **Petitioner**

Versus

1. Achhelal S/o R. S. Patel, Aged about 35 years R/o Tahsilpara,
Bijapur, P.S. Bijapur, District Bijapur (C.G.)
2. Dharmendra Bajpai S/o Ghanshayam, Aged about 23 years R/o
Tahsilpara, Bijapur, P.S. Bijapur, District Bijapur (C.G.)
3. Dilip Chandak S/o Murli Manohar, Aged about 23 years R/o
Tahsilpara, Bijapur, P.S. Bijapur, District Bijapur (C.G.)
4. Jay Prakash S/o Pukhraj, Aged about 28 years R/o Main Road
Bijapur, P.S. Bijapur, District Bijapur (C.G.)
5. Rajesh Kumar S/o Ghanshyam Singhaniya, Aged about 38 years
R/o Main Road Bijapur, P.S. Bijapur, District Bijapur (C.G.)
6. Samir Korram S/o Liluram Korram, Aged about 27 years R/o
Bijapur, P.S. Bijapur, District Bijapur (C.G.)
7. P. Vyankat S/o Dugoyya, Aged about 49 years R/o Tahsilpara,
Bijapur, P.S. Bijapur, District Bijapur ----- **Respondents**

For State/Petitioner : Shri Afroj Khan, Panel Lawyer.

For Respondent : Shri Tarendra Kumar Jha, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board**12/02/2020**

1. Heard on I.A. No. 01/2017, 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 35 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 13th April, 2017 passed by Chief Judicial Magistrate, Bijapur, District- Bijapur (C.G.) in Criminal Case No. 92/2017 wherein the said Court acquitted all the respondents for charge under Section 13 of the Public Gambling Act, 1867 (for short "the Act, 1867").
5. In the present case, the prosecution examined three witnesses. Tikeshwar Wacham (PW-2) and Roshan Lati (PW-3) who are witnesses of the seizure have not deposed regarding seizure and from their version, the case of the prosecution is not supported. The only witness of the incident is Sub-Inspector Navin Patel (PW-1). As per version of this witness, 7 persons were playing the cards and he seized amount from the said place. For establishing the charge under Section 13 of the Act, 1867, it has to be established that any person was found playing for money or other valuable things.
6. In the present case, from evidence of Navin Patel (PW-1), it is not established as to who is the person started gambling and what was the amount which he will get after end of the game. It is also not clear as to who is the person who will loss money after end of the game. The basic ingredient of the offence in question is not established, therefore, the seizure itself is not sufficient to establish the charge.
7. The trial Court after evaluating the entire evidence recorded finding of acquittal. After going through the record, it is not a case where interference of this Court is required in the judgment of the

trial Court. It is not a case where the respondents should be called for full consideration of this petition.

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

Sd/-

**(Ram Prasanna Sharma)
Judge**

Vasant