

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 2297 of 2019

- State of Chhattisgarh, through- Police Outpost Hardibazar, Police Station Kusmunda, District- Korba (C.G.) ---- **Petitioner**

Versus

- Chhatram Yadav, S/o Khelram Yadav, Aged about- 46 years, Resident of Yaramsahi, Police Station Masturi, District- Bilaspur (C.G.) ---- **Respondent**

 For State/Petitioner : Smt. Shubha Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board11/02/2020

1. Heard on I.A. No. 01/2019, 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 581 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 23rd September, 2017 passed by Special Judge (under N.D.P.S. Act), Korba (C.G.) in Special Criminal (N.D.P.S. Act) Case No. 08/2016 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").

5. Respondent was charge-sheeted for having possession of contraband article Ganja to the tune of 6 kg 200 grams on 28th October, 2016 at about 18:30 pm at Hardi Bazar.
6. In the present case, no Malkhana Register was produced before the trial Court to establish that seized article was kept in safe custody of Malkhana as per provisions of Section 55 of the Act, 1985. No Rojnamcha was produced that sample was kept for safe custody in Malkhana and it was sent for examination to Forensic Science Laboratory. The In-charge of Malkhana was not examined before the trial Court.
7. The trial Court after evaluating the evidence recorded finding that it is not proved that seized article and samples were kept in safe custody of Malkhana of the police station and the same sample was withdrawn and sent for chemical examination, therefore, the F.S.L. Report is not connecting piece of evidence of that seizure.
8. 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.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge