

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2344 of 2019**

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

Versus

1. Mohib Ali, S/o Soukat Ali, Aged about- 24 years,
2. Gulrej Ali, S/o Soukat Ali, Aged about 30 years,

Both respondents are R/o Imambada Chowk, Farid Nagar, Ward No. 7, Supela, Police Station- Supela, District- Durg (C.G.)

----- **Respondent**

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

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****27/01/2020**

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 63 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 30th April, 2019 passed by Special Judge (N.D.P.S.), Durg (C.G.) in N.D.P.S. Special Case No. 09/2016 wherein the said Court acquitted both the respondents for charge under Section 22(b) of the Narcotic Drugs and Psychotropic Substances (N.D.P.S.) Act, 1985 for having possession of psychotropic substance namely

Codeine Phosphate which is of quantity lessor than commercial quantity, but greater than small quantity.

5. In the present case, the investigating officer is T.N. Yadav Assistant Sub-Inspector (PW-10), this witness has admitted before the trial Court that the seized articles were not sealed on the spot. The batch number, name of manufacturing company and date of manufacture is also not mentioned in the seizure memo. In absence of particulars, it is not established that articles were seized from medical store of the respondents, therefore, seizure of psychotropic substance is not established.
6. Again, there is no evidence that prohibited substance as mentioned above were sold by the respondents without the prescription of medical expert or it is sold without certificate or authorization. View taken by the trial Court is not perverse. 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 respondents/accused should be accepted, therefore, this Court has no reason to record contrary finding regarding commission of offence. It is not a case where respondents 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