

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2459 of 2019

The State of Chhattisgarh, Through- District Magistrate
Bemetara (C.G.) **----- Petitioner**

Versus

Dhannu Sahu, S/o- Sukhlal Sahu, Aged about- 31 years, R/o-
Village- Kharra, P.S. - Berla, District- Bemetara (C.G.)
----- Respondent

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

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

03.02.2020

1. Heard on application for grant of leave to appeal filed under Section 378(3) of Cr.P.C.
2. This petition is preferred against the judgment dated 13.08.2019, passed by learned Special Judge (NDPS Act) Bemetara (C.G.), in Special (NDPS) Criminal Case No.12/2017 wherein the said Court has acquitted the respondent for commission of offence under Sections 8 read with 20 (b) (ii) (a) of the Narcotic Drugs & Psychotropic Substances Act, 1985 for having possession of contraband article Ganja to the tune of 1 kg 258 gm on 05.09.2017 at village Kharra at his farm house.
3. Assistant Sub Inspector-Bhagwan Das Gandharva (PW-9) is person who conducted search operation in the present case. As per version of this witness he searched farm house at village Kharra but he is not able to state as to who is recorded

owner of the land and who is recorded possessor in Khasra entry of revenue records or record of rights. There is nothing on record that place in question was in exclusive possession of the appellant. The appellant may be held liable only when his exclusive possession on the said farm house is established. But, from the evidence, there is possibility that said farm house is in the reach of the other person, therefore, article seized from the said farm house cannot be treated in exclusive possession of the appellant.

4. Looking to the totality of evidence, finding recorded by the trial Court is one of the plausible view. If two views are possible, the view which is in favour of respondent/accused should be preferred.
5. In view of the legal position, 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 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 petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge