

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 238 of 2021

- State Of Chhattisgarh, Through - The Police Station Kotwali, District - Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. Deepak @ Dipu Mistri S/o Satto Mistri, Aged About 27 Years R/o. Mv 83, Padmagiri, Police Station Malkangiri, District Malkangiri (Orissa)
2. Dhanapati Sardar S/o Shashank Sardar, Aged About 32 Years R/o. Padmagiri Kanjoli, Police Station Malkangiri, District Malkangiri (Orissa)
3. Rakesh Rai S/o Rishikesh Rai, Aged About 24 Years R/o. M V 83, Padmagiri, Police Station Malkangiri, District Malkangiri (Orissa)

--- Respondents

For Petitioner/State : Mr. Pawan Kesharwani, P.L.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****10/03/2021**

1. Heard on application for condonation of delay as well as on prayer for grant of leave to appeal.
2. Even if, we are inclined to condone the delay, we do not find that judgment passed by the Court below suffers from any patent illegality or perversity on the face of all the independent witnesses of prosecution with regard to search, seizure and weighment turning hostile and not supporting the case of the prosecution. The learned trial Court has appreciated the evidence and come to the conclusion that the prosecution has failed to prove its case beyond doubt with regard to safe custody of the alleged contraband and there are discrepancies in the seal and even, sample seal was not deposited in the *malkhana*. Further the learned trial Court has minutely scrutinized the evidence with regard to the discrepancies found in the seal shown on sample sent to FSL and has recorded finding that the discrepancies in the evidence with regard to safe custody of the contraband is doubtful. The acquittal of the accused is cumulative effect, important prosecution witnesses turning hostile and above discrepancy, therefore, we do not find present to be a fit case for grant of leave to appeal. Therefore, the application is rejected.

3. The CRMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ravi