

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 584 of 2021

- State Of Chhattisgarh Through P.S. Chhuikhadan, District : Rajnandgaon, Chhattisgarh

---- **Petitioner****Versus**

1. Sadanand Majumdar S/o Late Shri Amulya Majumdar Aged About 30 Years R/o AT-MV 84, Padamgiri, P.S. Malkangiri, District Malkangiri (Orissa)
2. Manoj Kumar Sahu S/o Nemichand Sahu Aged About 25 Years R/o Singhola Math Para P.S. Surgi, District : Rajnandgaon, Chhattisgarh

--- **Respondents**

For Appellant/State : Mr. Anshuman Shrivastava, PL

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava****29.06.2021**

Heard.

1. There is prayer for grant of leave to appeal against the judgment of acquittal dated 17.02.2021 passed by the Court of learned Special Judge (NDPS), Rajnandgaon (CG) in Special NDPS Case No.10/2018, by which, the respondents/accused are acquitted of the charges of commission of offence under Section 20(ख)(II)(ग) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. Learned counsel for the State would submit that the prosecution has come out with the evidence of compliance of Section 42 (2) of the NDPS Act and proof of recovery of *Ganja* from the evidence of the Investigating Officer (PW-11) but acquittal has been ordered on minor discrepancies. After going through the impugned judgment we find that the learned trial Court has granted the accused benefit of doubt taking into consideration

that the independent witnesses Sachin (PW-4) and Mahesh (PW-5) have not supported the case of the prosecution, witness of weight Sheikh Nizamuddin (PW-3) has also not supported the case of the prosecution. Other witnesses have supported only to the extent of stopping of the vehicle.

3. Learned Court below has also taken into consideration that the accused name was mentioned in the *Panchnama* without there being any search warrant, though, by that time, the name of the accused was not known. It has also taken into consideration that the evidence with regard to preparation of *Panchnama* and execution of *Panchnama* are doubtful and there is no satisfactory evidence led by the prosecution with regard to safe custody that so called articles were sent for examination. The Investigating Officer could not state before the Court as to who had taken the seized samples for examination to the FSL. Therefore, taking into consideration the aforesaid aspect of the matter and that the learned counsel for the State could not satisfy us with respect to the findings recorded by the trial Court, that the learned trial Court not committed any patent illegality or perversity in granting acquittal to the respondents, and further that the learned trial Court has taken into consideration the cumulative effect of number of material discrepancies in the case of prosecution on principles laid down by the Supreme Court in the matter of **Noor Aga Vs. State of Punjab and Anr.**¹, keeping in view the limited scope of interference against the judgment of acquittal, we, accordingly, do not consider present to be a fit case for grant of leave to appeal. Accordingly, application is rejected.

4. CRMP is accordingly closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge