

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 929 of 2021**

- State Of Chhattisgarh, Through - Station House Officer, Police Station Tamnar, District : Raigarh, Chhattisgarh

---- Petitioner**Versus**

- Mustak Khan S/o Jahoor Khan, Aged About 27 Years R/o. Pelma, Police Station Tamnar, District : Raigarh, Chhattisgarh

--- Respondent

For Petitioner/State : Mr. Lalit Jangde, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****20/09/2021**

1. Heard on prayer for grant of leave to appeal.
2. Though learned State Counsel would submit that despite certain discrepancies, the substantive evidence with regard to seizure of psychotropic substance, drawl of sample sealing, deposit in *Malkhana* and sending it in safe custody to FSL is proved from the evidence of Investigating Officer.

After going through the impugned judgment of acquittal, we find that the basis for granting acquittal is that the prosecution has failed to prove its case beyond reasonable doubt particularly when one of the official witnesses himself has stated that the psychotropic substance was found lying by the side of the road in the backdrop that the independent witnesses of the seizure have not supported the case of the prosecution. Furthermore, the prosecution evidence with regard to sealing of the sample and safe custody have also been doubted. Entries in records of police station have also been found discrepant.

3. Considering that the offence of which the accused is charged provide for stringent punishment and a reverse burden of accused itself, the prosecution is required to prove its case beyond reasonable doubt. The view taken by the learned trial Court does not suffer from any patent illegality or perversity so as to call for interference against judgment of acquittal, given

limited scope of interference. We are not inclined to grant leave to appeal. Therefore, the application is rejected.

4. The CRMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge