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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 196 of 2021**

- State Of Chhattisgarh Through- The Police Station Lakhanpur, District- Surguja (Chhattisgarh).

... Appellant**versus**

1. Duhan Das S/o Thakur Das Panika, Aged About 37 Years, R/o Village Andhla, Police Station Lakhanpur, District- Surguja (Chhattisgarh).
2. Shobha Sahu @ Butu W/o Sonu Sahu, Aged About 32 Years, R/o Village Rasti, Police Station Kinjarkela, District Sundergarh (Odissa).

... Respondents

For Appellant/State : Mr. Kanwaljeet Singh Saini, Dy. Govt. Advocate
 For Respondent No.1 : Ms. Seema Mishra, Advocate appears on behalf of Ms. Uttra Shrivastava, Advocate.
 For Respondent No.2 : None, though served.

SB: Hon'ble Shri Justice Sanjay S. Agrawal**Judgment On Board****23/03/2026**

- 1) This appeal has been preferred by the appellant/State under Section 378 of the Code of Criminal Procedure, 1973 questioning, questioning the legality and propriety of the judgment dated 08/05/2017 passed by the Special Judge (NDPS Act), Ambikapur



(C.G.) in Special Criminal Case No.09/2015, whereby, the respondents have been acquitted with regard to the offence punishable under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “the NDPS Act”).

- 2) From perusal of the record, it appears that on 11/07/2015, the Police Station, Lakhanpur has received a secret information that one male and one female are coming from Udaipur on motorcycle and have illegally transporting the contraband article (Ganja) while containing the same in their bags. Based upon the alleged information, the Mukhbir Panchnama was prepared and witnesses were called and the information, so received secretly was forwarded to the Additional Superintendent of Police, Ambikapur vide Ex.P-4 on 11/07/2015 and thereafter, the Police alongwith the witnesses reached to the Nawapara Chowk and fixed the barricades and after sometime, when the alleged motorcycle came there, it was stopped and during its search, the driver of the motorcycle has told his name as Duhan while female member told her name as Shobha Sahu @ Butu Sahu, who were holding airbags at the relevant point of time. After serving the notice as required under Section 50 of the NDPS Act to them and after getting permission, search was made before the witnesses where 5 packets containing “Ganja” were recovered from the respondent No.1- Duhan, while 4 packets containing “Ganja” was recovered from respondent No.2- Shobha Sahu and thereafter, Baramdagi Panchnama was prepared vide Ex.P-12 and Ex.P-13. It appears further that the articles of the packets were identified by seeing and smelling as contraband article “Ganja” and, a notice



under Section 91 of the Cr.P.C., was issued directing them for submitting the legal documents, but they failed to furnish the same and, thereafter, a physical verification of the contraband articles was conducted by weighing machine and, from every bags, 25-25 grams sample packets were prepared. It appears further that after weighing the articles, total 5 Kg contraband article was recovered from the bag of respondent No.1-Duhan, while 4 Kg contraband article was recovered from the bag of respondent No.2- Shobha Sahu and the contraband article was seized from them were sealed on the place of the incident and a Panchnama was prepared and the respondents were arrested and after completion of the usual investigation, the charge-sheet was submitted before the concerned trial Court, where they have been charge-sheeted with regard to the offence punishable under Section 20(b)(ii)(B) of the NDPS Act, which was denied by them and claimed to be tried.

- 3) In order to establish the alleged allegation that on the said fateful day, the alleged contraband article (Ganja) was recovered from the respondents vide Ex.-P-25 and Ex.P-26 in presence of two witnesses, namely, Vijay Rajwade (PW-4) and Santosh Kumar Sahu (PW-5), but both these witnesses have, however, turned hostile without supporting the same. It is to be seen further that before the seizure of the alleged contraband article from them, a secret information was received by the Investigation Officer, namely, R.D. Singh (PW-8) vide Ex.P-4 on 11/07/2015 and on the same day, he furnished the same information to his higher authority, namely, Additional Superintendent of Police, Ambikapur through the Constable No.578, namely, Surajbali Singh (PW-9). However, a bare



perusal of the alleged information (Ex.P-4) time was, however, not shown to be there and, that apart, though it was stated by him (Ex.P-8) that it was furnished to the higher authority through the said Constable, Surajbali Singh (PW-9), but from perusal of his (PW-9) statement, it appears that the same was, however, not delivered to the higher authority, as he returned back without serving the same, as reveled from para 2 of his testimony.

- 4) It is to be noted here further that the “seal” used for the packet containing contraband article “Ganja” was shown to be “PS, LPR” as revealed from the proceeding of the “Seal Panchnama”, marked as Ex.P-22 and Ex.P-23, however, a chemical examination report (Ex.P-42) of those contraband articles would, however, shown to be the seal as “PS”, i.e. distinct from the seal used in Ex.P-22 and Ex.P-23. In view of the distinct use of seal, revealed from Ex.P-22 and Ex.P-23, vis-a-vis, from the chemical examination report (Ex.P-42), it is difficult to hold that the alleged contraband article recovered on the said fateful day was, in fact, sent for the chemical examination. As such, the trial Court, after taking note of those materials has, therefore, not committed any illegality in acquitting them from the commission of the alleged crime, so as to call for any interference in this appeal.
- 5) The appeal, being devoid of merit is, accordingly, dismissed.

**Sd/-
(Sanjay S. Agrawal)
Judge**