

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC(Cril.Appeal) No. 26 of 2023

Ref:- Cril. Appeal No. 10 of 2023

Irungbam Santosh Singh, Advocate, aged about 35 years,
S/o I. Mohendro Singh, a resident of Malom Tuliha
Maning Leikai, P.O. Tuliha, P.S. Nambol, Imphal West,
Manipur.

... APPLICANT

-VERSUS-

1. State of Manipur represented by the Chief Secretary,
(Home) Govt. of Manipur, Babupara, Imphal West,
Manipur.
2. The O.C. Imphal Police Station, Imphal West,
Manipur.
3. The O.C. Women Police Station, Lamphelpat, Imphal
West, Manipur.
4. Meitan Keishangbam Manikanta Singh, aged about 48
years, S/o (L) M. Gulamjat Singh of Meitei Langol I/W.
5. Salam Iboyaima Meitei, aged about 48 years, S/o
Tharo Meitei of Kwakeithel, Leikai I/W.
6. Saikhom Mandakini Chanu, aged about 40 years, W/o
Salam Iboyaima Meitei of Kwakeithel Laishram Leikai.
7. Nameirakpam Inaomacha @ Wareppa @ Epa, aged
about 49 years, S/o N. Amuba Meitei of Singjamei
Maisnam Leikai, I/W.

... RESPONDENTS**BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN**

For the Applicant :: Mr. S. Rajeetchandra, Adv.

For the Respondents :: Mr. H. Samarjit, Addl. PP
Mr. Dayali Elangbam, Adv.

Date of Hearing and
reserving Judgment & Order :: 19.10.2023

Date of Judgment & Order :: **30.10.2023**

**JUDGMENT AND ORDER
(CAV)**

Heard Mr. S. Rajeetchandra, learned counsel for the petitioner; Mr. H. Samarjit, the learned Additional Public Prosecutor for respondent State and Mr. Dayali Elangbam, the learned counsel for the private respondents.

2. This application has been filed by the learned counsel for the appellant under Section 482 Cr.P.C. seeking permission to amend memo of appeal and allow it to be taken up as revision petition under Section 401 Cr.P.C.

3. Mr. S. Rajeetchandra, the learned counsel for the appellant submitted that, due to bona fide mistake, he has presented the petition as an appeal under Section 372 Cr.P.C., whereas the same should have been presented as revision

petition under Section 401 Cr.P.C. Thus, the learned counsel prayed for following amendments in the memo of appeal and allowing the criminal appeal to be taken up as a criminal revision petition:

- (1) At page no.1 of the main petition, in the heading IN THE MATTERS OF in the first line after the word “Section 372” be replaced by “Section 401”.
- (2) In the First paragraph of the petition at page no.3, in the first line after the word “present” the word “appellant” be replaced by petitioner.
- (3) In the Second paragraph of the petition at page No.3 in the first line after the word “this” the word “appeal” be replaced by “revision”.
- (4) At page no.9, under the Heading the “Grounds of appeal”, after the word “for” the word “Appeal” be replaced by “Revision”.
- (5) At page no.9 of the main petition under para no.14 in the second line the word “appeal” after the “/” sign be deleted.
- (6) At page no.9 of the main petition under para no.14 sub para no.1

after the word “Criminal” the word “Appeal” be replaced by “Revision”.

- (7) At page no.9 of the main petition under para no.14 sub para no.3 after the word “Criminal”, the word “Appeal” be replaced by “Revision”.

4. According to the learned counsel for the petitioner, the proposed amendments shall not alter the pleadings of the appellant in any way. Thus, a prayer has been made to permit him to amend the appeal as detailed above.

5. Opposing the prayer, Mr. Dayali Elangbam, the learned counsel for the private respondents submitted that the application for amendment of the memo of appeal is not maintainable in the present form and there is no such provision for amendment of the criminal appeal. The learned counsel submitted that the appeal under Section 372 Cr.P.C cannot be converted under Section 401 Cr.P.C. for revision. The petitioner can very well withdraw the appeal with leave of the Court to file revision, if he found there is mistake. The pending memo of appeal cannot be amended as revision by changing some words. If the said amendments are allowed, then the whole nature of the case will change as the amendment portion contented in the

petition is neither clerical nor arithmetical mistake, but would lead to alteration of the entire petition and the jurisdiction differs.

6. The learned counsel would submit that the appellant has presented the appeal as appeal against acquittal under Code No.10251. Now the appellant is seeking amendment of the memo of appeal as criminal revision which is separate entity with different Code No. and category of case etc. Only to delay the case and to harass the private respondents, the present application has been filed. Since the scope and object of the appeal and revision are quite different, the present application is not maintainable and the same is liable to be dismissed.

7. Heard Mr. H. Samarjit, the learned Additional Public Prosecutor for the respondent State on the submissions made by the learned counsel for the petitioner.

8. This Court considered the rival submissions and also perused the materials available on record.

9. The present application has been filed by the learned conducting counsel for the appellant stating that due to bona fide mistake he has presented the petition as an appeal under Section 372 Cr.P.C. whereas the same should be presented as revision under Section 401 Cr.P.C.

10. The said prayer of the applicant has been vehemently opposed by the private respondents contending that there is no such provision for amendment of the criminal appeal and that the application for amendment of the memo of appeal is not maintainable. Further, the appeal under Section 372 Cr.P.C. cannot be converted under Section 401 Cr.P.C. for revision. If the present application is allowed, the nature of the case will change. At best, the present appeal can be withdrawn with liberty to file a revision.

11. The proposed amendments sought by the applicant have been extracted supra. On a perusal of the proposed amendments sought by the learned counsel, the same do not alter the nature of the case as contended by the learned counsel for the private respondents. At the cost of repetition, the proposed amendments are quoted hereunder:

- (1) At page no.1 of the *main petition*, in the heading *IN THE MATTERS OF* in the first line after the word "Section 372" be replaced by "Section 401".
- (2) In the First paragraph of the petition at page no.3, in the first line after the word "present" the word "appellant" be replaced by petitioner.
- (3) In the Second paragraph of the petition at page No.3 in the first line after the word "this" the word "appeal" be replaced by "revision".

- (4) *At page no.9, under the Heading the “Grounds of appeal”, after the word “for” the word “Appeal” be replaced by “Revision”.*
- (5) *At page no.9 of the main petition under para no.14 in the second line the word “appeal” after the “/” sign be deleted.*
- (6) *At page no.9 of the main petition under para no.14 sub para no.1 after the word “Criminal” the word “Appeal” be replaced by “Revision”.*
- (7) *At page no.9 of the main petition under para no.14 sub para no.3 after the word “Criminal”, the word “Appeal” be replaced by “Revision”.*

12. Admittedly, the proposed amendments sought by the applicant are to change the words, namely “appellant” as “petitioner”; “Section 372” as “Section 401” and “appeal” as “revision”. The said proposed amendments would in no way affect the nature of case. Though the change of nomenclature of the criminal appeal as criminal revision is not sought for by the applicant, if the proposed amendments are allowed and carried out, automatically, the Registry will change the nomenclature of the case appropriately and the present case still cannot be treated as criminal appeal as stated by the private respondents.

13. There is nothing in the Code of Criminal Procedure to bar a criminal appeal being treated as criminal revision or vice-versa. The purpose of all rules of procedure obviously is to enable

justice to be done. As such, every procedure which advances the dispensation of justice should be considered permissible, unless it is prohibited. Even assuming that the Sessions Court does not have the power to treat the revision as an appeal, the High Court has power under Section 482 Cr.P.C. to direct to do so in order to secure the ends of justice.

14. Therefore, finding bona fide in the prayer made in the present application, this Court is of the view that the proposed amendment can be allowed. If the proposed amendments are allowed, no prejudice would be caused to the private respondents, who are accused in Special Trial (POCSO) Case No.12 of 2022 on the file of the Fast Track Special Court No.I, Manipur and who were discharged from the charges under Sections 366/354/34 IPC and Section 10 of POCSO Act, 2012, as there was no prima facie material for presuming that they have committed the offences levelled against them.

15. In the result, MC (Cril. Appeal) No.26 of 2023 in Criminal Appeal No.10 of 2023 is allowed.

JUDGE

FR/NFR

Sushil