

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No.21 of 2022

Shri Amlan Chowdhury, S/o Shri Mantosh Chowdhury of Madhyapara,
PS- R.K. Pur, Udaipur, Dist- Gomati Tripura.

.....Petitioner(s);

Versus

1. The State of Tripura, Represented by Secretary cum Commissioner,
Home Department, Govt. of Tripura, New Capital Complex, P.O.-
Lichubagan, P.S.-West Agartala, Dist.- West Tripura

2. Shri Abhijit Das, S/O Shri Debabrata Das of Badarmokam, Poultry
Road, under R.K. Pur PS, Udaipur, Dist- Gomati Tripura.

.....Respondent(s).

For Petitioner(s) : Mr. A. Acharjee, Advocate,
Mr. Rupak Nama, Advocate.

For Respondent(s) : Mr. D.K. Daschoudhury, Advocate,
Mr. Sumit Debnath, Addl. P.P.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

JUDGMENT & ORDER (ORAL)

19/05/2023

The instant revision petition is directed against the judgment
dated 11.03.2022 passed in Criminal Appeal No.39(4) of 2018.

2. By the judgment dated 19.11.2018 passed in CR (NI) No.30
of 2017, the learned Judicial Magistrate First Class, Court No.1, Udaipur,
Gomati District acquitted the accused-respondent from liability under
Section 138 of the NI Act, 1881. The complainant preferred an appeal
under Section 372 (Proviso) of Code of Criminal Procedure (Cr.P.C., *for
short*) before the learned Sessions Judge, Gomati District, Udaipur which

was dismissed by the learned Additional Sessions Judge, Gomati District, Udaipur vide judgment dated 11.03.2022 as being “*not maintainable*” in view of the provisions under Section 378(4) of the Cr.P.C. Hence, the accused has preferred this revision petition.

3. However, Mr. D.K. Daschoudhury, learned counsel for the respondent-accused, at the outset fairly submits that the instant revision petition is not maintainable as the complainant had invoked a wrong forum under Section 372 (Proviso) against the judgment of acquittal passed in a complaint case by the learned Trial Court.

4. Mr. A. Acharjee, learned counsel for the petitioner, has not been able to show as to how an appeal would lie straightaway under Section 372 (Proviso) of the Cr.P.C against a judgment of acquittal passed by the learned Trial Court in a complaint case before the court of learned Sessions Judge.

5. There is no infirmity in that order. In that sense, the revision petition is misconceived. This Court is, therefore, not inclined to interfere in the order of the Appellate Court. Mr. Acharjee, learned counsel for the petitioner, however seeks leave to appeal under Section 378(4) of the Cr.P.C. in a separate proceeding against the judgment of acquittal passed by the learned Trial Court dated 19.11.2018.

6. Mr. Daschoudhury, learned counsel for the respondent-accused, opposes the prayer and submits that such an application would be hugely barred by delay of about 5 years.

7. Be that as it may, this Court is not required to make any comments upon the request made by learned counsel for the petitioner. If it is permissible for the petitioner to file a fresh application under Section 378(4) of the Cr.P.C, it is up to the petitioner to do so.

8. The criminal revision petition is dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ