

**HIGH COURT OF TRIPURA
AGARTALA
CRL.PETN. NO.3 OF 2024**

Sri Chandan Debnath
Vs.
Mr. Deep Kalra and ors.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s) : Mr. R.G. Chakraborty, Advocate.
For the Respondent(s) : Mr. Raju Datta, P.P.
Mr. S. Majumder, Advocate.

05.03.2024

Order

This present criminal petition has been filed under Section 482 of Cr.P.C. for saving the inherent power of the High Court and set aside the judgment and impugned Order dated 12.12.2023 passed in Criminal Revision No.17/2022 by the learned Addl. Sessions Judge, Court No.2, West Tripura.

Heard Mr. R.G. Chakraborty, learned counsel appearing for the petitioner as well as Mr. Raju Datta, learned P.P., appearing for the State-respondent and Mr. S. Majumder, learned counsel appearing for the Private-respondents.

It is seen from the record and the affidavit that the petitioners in the criminal revision filed before the Court below upon which the impugned order has been passed which falls for consideration before this Court are 1) Mr. Deep Kalra, 2) Rajesh Magow, 3) Mr. Mohit Kabra, 4) Mr. Raj Rishi, 5) Mr. Sanjay

Mohan, 6) Mr. Saujanya Shrivastava, 7) Mr. Vipal Prakash and 8) Mr. Yuvaraj Srivastava. But the signatory to the affidavit who has presented the criminal revision before the Court is not a party-respondent before the Court below. The said person signatory to the affidavit presented before the Court below Mr. Parag Chahal is a stranger and he cannot sign the document to which he has no instructions or authorization as the same are not placed on record.

The Court below has referred to the High Court of Tripura Rules, 2023. The same is extracted here-in-under:-

"CHAPTER VIII PRACTICE AND PROCEDURE

F. 2. Statements of Facts In Revision Applications To Be Supported By Affidavits:- Every fact stated in an application for the exercise of the revisional jurisdiction not set out in the order or judgment sought to be revised shall be supported by an affidavit.

G. 4. Affidavit: All Civil Applications shall be supported by affidavits

H. PROCEDURE IN CRIMINAL APPEAL REVISION

General 1. Contents of Appeal, Application or Revision: Every memorandum of appeal and every application or revision shall immediately below the title have endorsed on it "Criminal Appeal", "M. Cr. C.", "Criminal Revision", or "Criminal Miscellaneous Petition", as the case may be, stating the provisions of law under which made, and shall state--
- (i) the name and address of each appellant / applicant; (ii) the name and address of each respondent/non-applicant; (iii) every memo of appeal under Section 374 of the Code of Criminal Procedure and every petition praying for the exercise of the High Court's power under Section 397/401 of the Code of Criminal Procedure shall state the details of the sentence and/or fine imposed and the enactment under which any conviction is held in the proceedings in connection with which he appeal/revision is made; (iv) the case number, date of judgment/order appealed/applied against, and all other particulars of the case including the name of the Presiding Officer of the Court below; (v) facts of the case in brief, (i) ground(s) numbered serially; (vii) the relief prayed for.

2. Every such appeal, application or revision shall be accompanied by the certified copy of the impugned judgment/order: Provided that the provisions of this Rule, shall not apply to a memo of appeal/revision or an application made by an accused in duress.

3. Every application for Revision under Section 397/401 of the Code of Criminal Procedure shall state the details of application, if any, filed

before the Court of Sessions of the High Court by any party to the original case.

4. In all Criminal Appeals and Criminal Revisions arising out of conviction and sentence imposed by a Judicial Magistrate of a Sessions Court, the Registrar (Judicial) shall send for the record of the Court(s) below. In other cases the record of the Court below shall not be requisitioned unless otherwise directed by the Court.

5. In an appeal or revision against conviction no application or motion for suspension of sentence shall be heard unless the accused has surrendered except in case where the accused has been released on bail by the Court below.

6. No application for suspension of sentence or any application for interim relief shall be made without service of notice to the Public Prosecutor/ Advocate General.

The aforesaid rules clearly prescribe that all Civil Applications shall be supported by affidavits whereas no such prescription is there for criminal revision. Thus the first point of attack of the respondent No.2 falls flat.

The deponent of the affidavit before the Court below Mr. Parag Chahal is not the party who is contesting the matter. Hence the order impugned dated 12.12.2023 is accordingly set aside as the same is erroneous and contrary to the procedure.

Criminal petition ordered accordingly and thus disposed of. Stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

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SUHANJIT
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SUHANJIT SINGHA
Date: 2024.03.12
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