

**HIGH COURT OF TRIPURA  
AGARTALA**  
**Crl.L.P.No.08 of 2024 in Crl.A.No.16 of 2024**

**Sri Ajit Datta,**  
son of Late Gopal Chandra Datta,  
resident of Village-Ramkrishna Pally,  
P.O. & P.S. Bishramganj,  
District-Sepahijala, Tripura

---- Petitioner-Appellant (s)

Versus

**1. Smt. Swapna Roy Choudhury,**  
wife of Sri Ratan Roy Choudhury,  
care of Sri Kajal Banik,  
resident of Village-Chandrapur (Jamtala),  
P.O. Resham Bagan, P.S. East Agartala,  
District-West Tripura

**2. The State of Tripura,**  
represented by the Secretary,  
Home Department, Government of Tripura,  
Agartala

----Respondent(s)

---

|                              |   |                      |
|------------------------------|---|----------------------|
| For petitioner-appellant (s) | : | Mr. K.K. Pal, Adv.   |
| For Respondent(s)            | : | Mr. Raju Datta, P.P. |

---

**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Order**

**20/11/2024**

Learned counsel, Mr. K.K. Pal is present for the petitioner-appellant. Learned P.P., Mr. Raju Datta is present for the respondent No.2. None has appeared on behalf of the respondent-accused No.1 in spite of service of notice by 'Dasti' service.

**[2]**            Heard Learned counsel for the petitioner-appellant.  
  
                  Considered.

**[3]**            The petitioner-appellant has filed this petition under Section 378(4) of Cr.P.C. for granting Special Leave to appeal against the judgment and order of acquittal dated 27.03.2024 delivered by Learned Sub-Divisional

Judicial Magistrate, Bishalgarh, Sepahijala, Tripura in connection with Case No.N.I.02/2020.

**[4]** In course of hearing of argument, Learned counsel for the petitioner-appellant submitted that the petitioner filed one case under Section 138 of NI Act before the Court of Learned SDJM, Bishalgarh, Sepahijala, Tripura against the respondent-accused No.1 and after conclusion of trial, Learned Trial Court below by judgment dated 27.03.2024 has acquitted the respondent-accused from the charge of the said case and being aggrieved with the said judgment and order of acquittal, this petitioner has preferred this Special Leave to appeal before this Court. Learned counsel further submitted that before the Learned Trial Court, the petitioner produced the copy of demand notice issued by the appellant to the respondent-accused but through bonafide mistake during recording of evidence, the postal receipt could not be submitted, although, the same was submitted before the Learned Trial Court before delivery of judgment.

**[5]** Further, according to Learned counsel for the petitioner-appellant, the demand notice was prepared on 05.02.2020 but the same was dispatched on 07.02.2020, although, the same was within the period of limitation as required under the Act but the Learned Trial Court below simply on that ground that the notice served was not duly proved acquitted the respondent-accused from the charge of this case. Learned counsel further submitted that the appellant-petitioner has good prima facie case and to succeed the case the petitioner took all the steps and proved the disputed cheque before the Learned Trial Court below. But the Learned Trial Court without appreciating the evidence on record properly has acquitted the respondent-accused. In support of his contention, Learned counsel has relied upon one citation of the Hon'ble Supreme Court of India in **State of Haryana versus Surjit Singh** reported in **2008 Legal Eagle (SC) 1590** in Criminal Appeal No.195 of 2002 dated 28.11.2008 wherein in para Nos.5,6 & 8 the Hon'ble Apex Court has observed as under :

"5. The Trial Court was required to carefully appraise the entire evidence and then come to a conclusion regarding applicability of a particular provision. If the Trial Court was at lapse in this regard the High Court was obliged to undertake such an exercise by entertaining the appeal. The High Court ought to have in such circumstances granted leave and thereafter as a first court of appeal, analysed entire evidence on the record independently and returned its findings objectively as regards guilt or otherwise of the accused and applicability of a particular provision. It has failed to do so. The questions involved were not trivial. The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal, and seems to have been completely oblivious to the fact that by such refusal, a close scrutiny of the order of acquittal, by the appellate forum, has been lost once and for all. The manner in which appeal against acquittal has been dealt with by the High Court leaves much to be desired. Reasons introduce clarity in an order. On the plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court order not sustainable. Similar view was expressed in *State of U.P. v. Battan and Ors* (2001 (10) SCC 607). About two decades back in *State of Maharashtra v. Vithal Rao Pritirao Chawan* (AIR 1982 SC 1215) the desirability of a speaking order while dealing with an application for grant of leave was highlighted. The requirement of indicating reasons in such cases has been judicially recognized as imperative. The view was reiterated in *Jawahar Lal Singh v. Naresh Singh and Ors.* (1987 (2) SCC 222). Judicial discipline to abide by declaration of law by this Court, cannot be forsaken, under any pretext by any authority or Court, be it even the Highest Court in a State, oblivious to Article 141 of the Constitution of India, 1950 (in short the 'Constitution').

6. Even in respect of administrative orders Lord Denning M.R. in *Breen v. Amalgamated Engineering Union* (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In *Alexander Machinery (Dudley) Ltd. v. Crabtree* (1974 LCR 120) it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

8. In view of the principles set out above, it would be appropriate to direct the High Court to grant leave as grounds raised are not without substance. We, however, make it clear that we have not expressed any opinion on the merits of the case."

Referring the same, Learned counsel has drawn the attention of the Court to allow the application for Special Leave to appeal to enable the petitioner-appellant to substantiate his appeal properly before this Court.

Considered.

**[6]** On the other hand, Learned P.P. appearing on behalf of the respondent No.2 did not raise any objection on the prayer of Special Leave to appeal.

**[7]** I have seen the judgment dated 27.03.2024 as delivered by the Learned Sub-Divisional Judicial Magistrate, Bishalgarh, Sepahijala, Tripura and after going through the judgment it appears to me that, there is merit on the submission of Learned counsel for the appellant-petitioner to admit the appeal. So, considering all, the application for Special Leave to appeal filed is hereby allowed.

This petition is accordingly stands disposed of.

**JUDGE**

SABYASACHI  
BHATTACHARJEE

Digitally signed by  
SABYASACHI  
BHATTACHARJEE  
Date: 2024.11.20 14:17:35  
+05'30'

*Sabyasachi B*