

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. L. P. No.19 of 2024 in Crl. A. No.31 of 2024

The State of Tripura		----- Petitioner(s)
	Versus	
Jayanta Chandra Naha		-----Respondent(s)

For Petitioner(s)	:	Mr. Raju Datta, P.P., Mr. Rajib Saha, Addl. P.P.
For Respondent(s)	:	Mr. Anjan Kanti Pal, Adv.

HON'BLE MR. JUSTICE BISWAJIT PALIT
Order

03/03/2025

Learned P.P., Mr. Raju Datta along with Learned Addl. P.P., Mr. Rajib Saha is present for the state-petitioner.

Learned Counsel, Mr. Anjan Kanti Pal is present on behalf of the respondent-accused.

Heard both the sides.

The state-petitioner has filed an appeal challenging the judgment and order of acquittal dated 12.09.2024 delivered by Learned Special Judge(NDPS), Sepahijala District, Sonamura in connection with Special(NDPS) No.33 of 2024 under Section 20(b)(ii)(C)/25/29 of NDPS Act. Along with the memo of appeal, another application for granting special leave to appeal is preferred by the state-petitioner.

We have already received the objection submitted on behalf of the accused.

Taking part in the hearing, Learned P.P. appearing on behalf of the petitioner first of all drawn the attention of the Court that Learned Special Judge has mis-interpreted and mis-read the

provisions of Section 42 of NDPS Act at the time of delivery of judgment and also came to an observation that on the basis of evidence of police personnel there is no scope to convict the accused. So, Learned P.P. urged for allowing this special leave to appeal and to allow the prosecution to proceed with the appeal of this case. In support of his contention, he also relied upon one citation of the Hon'ble Apex Court reported in **(2020) 9 SCC 627** titled as **Rizwan Khan versus State of Chhattisgarh** dated **10.09.2020** wherein in para No.12, Hon'ble the Apex Court observed as under:

"12. It is settled law that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by independent witness. As observed and held by this Court in catena of decisions, examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case [see Pardeep Kumar:(2018) 13 SCC 808]"

Referring the same, Learned P.P. fairly submitted that on close scrutiny of the evidence on record, it will transpire that the respondent-accused had committed the crime on the alleged date of the offence but the Learned Trial Court has failed to interpret the provisions of law and also failed to appreciate the evidence on record properly and acquitted the accused from the charge levelled against him on the ground that independent witness did not support the prosecution story. Rather in view of said judgment, there is scope on the part of the Court to deliver judgment of conviction relying upon the evidence of police personnel.

Per contra, Learned Counsel, Mr. Pal appearing on behalf of the respondent-accused submitted that there was no infirmity in

the judgment delivered by the Learned Special Judge(NDPS) and referring the evidences of the witnesses of the prosecution as annexed with the application, Learned Counsel submitted that on perusal of the evidence on record, it appears there were huge lacunas in the prosecution story but the prosecution before the Learned Court below has failed to discharge his burden by showing any cogent materials on record and submitted that if at this stage the appeal is allowed then it would be travesty of justice and urged for dismissal of the special leave application filed by the prosecution.

Considered.

I have perused the memo of appeal and also the judgment delivered by the Learned Special Judge as well as the connected documents annexed with the application. Also, I have seen the judgment of the Hon'ble Apex Court as referred by Learned P.P. appearing on behalf of the State-petitioner.

After considering the materials on record, it appears to this Court that there are materials for proceeding with the appeal and accordingly, the application for special leave to appeal filed by the petitioner-State is hereby allowed.

The petition is accordingly disposed of.

JUDGE