

HIGH COURT OF TRIPURA

AGARTALA

Crl. A. (J) No.8 of 2025

1. Prasenjit Das,

S/o Late Harimohan Das, resident of Village – Dudhpuskuni, P.S. Kakraban,
District – Gomati, Tripura.

2. Titan Miah,

S/o Late Hoshen Miah, resident of Village – Dudhpuskuni, P.S. Kakraban,
District – Gomati, Tripura.

3. Robel Miah,

S/o Sukkur Ali, resident of Village – Dudhpuskuni, P.S. Kakraban, District –
Gomati, Tripura.

.....Appellant(s);

VERSUS

The State of Tripura

.....Respondent(s);

For Appellant(s) : Mr. Partha Sarathi Roy, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor.

Date of hearing and delivery of
Judgment and Order : **24.02.2026.**

Whether fit for reporting : NO.

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT AND ORDER (ORAL)

[Dr. T. Amarnath Goud, J]

This present appeal is filed under Section-374 of Code of Criminal Procedure, 1973, against the impugned judgment of conviction and sentence dated 29.02.2024 passed by the learned Special Judge (NDPS), Khowai, Tripura, in connection with Special (NDPS) 08 of 2023, whereby and whereunder, the appellants have been sentenced to suffer RI for 10 years for the commission of offence punishable under Section 20(b)(ii)(C) of

NDPS Act, with fine of Rs.1,00,000/- (rupees one lakh) each with default stipulation.

[2] The brief fact of the prosecution case as projected in the judgment of the learned trial Court is that on 05.04.2023, at about 1440 hours, SI Ranjit Sarkar along with other police personnel left for vehicle checking duty at 41 Miles on N.H 8 Assam-Agartala road, under Mungiakami PS. During vehicle checking duty on the aforesaid place, at about 1610 hours one Bolero vehicle bearing No.TR-01-E-2409 was found coming suspiciously from Teliamura side. On seeing police, the driver of the said vehicle tried to flee away by accelerating speed but police managed to detain the said vehicle. The vehicle was checked at the spot and some brown coloured packets suspected to be dry ganja were found in hidden condition below the roof. Immediately, the O/C, PS was informed. Subsequently, O/C informed SP, Khowai. SDPO, Teliamura was also requested to come to the spot with one Executive Magistrate for taking action as per provision of law. The fact was noted in GDE vide Mungiakami PS GDE No.22, dated 05.04.2023. As per information, the O/C, came to the spot with weight machine and other related papers. After some time SDPO, Teliamura and DCM Teliamura also arrived at that spot. There were no independent witnesses around the PO. The passing cars/vehicles were requested to be witness but no one agreed showing their personal problem. Before raid and search, officers and staffs offered themselves to be searched in presence of Executive Magistrate and witnesses who were available at that spot. Pre-search memo was prepared in presence of Executive Magistrate and witnesses.

Thereafter, the informant along with staff searched the vehicle thoroughly in presence of SDPO and DCM and other witnesses. During checking an improvised cavity was found on the top of the ceiling of the vehicle and below the roof for transporting the contraband articles. It is also mentioned that one accused Prasenjit Das received injury on his right hand due to accidental fall while trying to flee from the spot during his detention. On opening the upper ceiling of the vehicle they found 25 brown coloured packets containing suspected dry ganja. Then, the packets were weighed with electronic weighed measuring machine and the quantity of total ganja was 215 kg and 600 grams. After the recovery of contraband items, the driver Titan Miah and other two persons of the said vehicle were searched.

Therefore, notice under Section 50 of NDPS Act, had been served upon the driver and other two persons who gave their consent for body search in presence of SDPO, Teliamura, Executive Magistrate and independent witnesses. During body search, mobile search, driving license of Titan Miah, driving license of Rubel Miah and driving license of Prasenjit Das were found. The vehicle, the recovered dry ganja and driving license were seized at the spot in presence of the witnesses, Executive Magistrate and SDPO, Teliamura. Subsequently, the whole process and the action taken were communicated to the higher authority. The seized ganja along with the seized vehicle etc. and the three accused persons were brought to the Mungiakami PS. Thus, the sou-moto complaint lodged by SI Ranjit Sarkar.

On 05.04.2023, on the basis of said complaint, a specific case was registered being Mungiakami PS case No.2023/MGK/005, dated 05.04.2023, under Sections 20 (b) (ii) (c)/29 of NDPS Act against the

accused appellants. Police authority after completion of investigation, submitted charge sheet.

[3] After that, considering the materials on record charge under Section-20(b)(ii)(c)/25/29 of NDPS Act, was framed against the three accused persons namely, Prasenjit Das, Titan Miah, and Robel Miah, to which they pleaded not guilty and claimed to be tried. In order to prove the charges framed against the accused persons, the prosecution examined as many as 16(sixteen) witnesses. The accused persons were examined under Section-313 of Cr.P.C wherein they denied to adduce any evidence on their behalf.

[4] Thereafter, upon hearing the arguments of both sides learned Court below convicted the appellants under Section 20(b)(ii)(C) of NDPS Act and thereby sentenced them to suffer as stated supra.

[5] Being aggrieved and dissatisfied with the conviction and sentence passed by the learned Special Judge (NDPS), Khowai, Tripura the appellants preferred this present appeal.

[6] Heard Mr. Partha Sarathi Roy, learned counsel appearing for the appellants. Also heard Mr. Raju Datta, learned Public Prosecutor appearing for the respondent-State.

[7] Learned counsel, Mr. Partha Sarathi Roy, submits that learned trial Court has erred in law and came to a wrong conclusion. He also submits that there are some discrepancies between the evidences of prosecution witnesses, and no independent witnesses were examined by the prosecution. Learned counsel, Mr. Roy, contended that learned trial Court

only basing upon the evidence of the official witnesses convicted the appellants and according to learned counsel, Mr. Roy, they are the interesting witnesses and their evidence cannot be said to be a trustworthy one. He further submits that learned trial Court failed to appreciate the same. He, therefore, urges before this Court to allow the present appeal and set aside the impugned Judgment of conviction and sentence.

[8] On the contrary, learned Public Prosecutor, Mr. Raju Datta, representing the State-respondent opposes the submissions made on behalf of the appellants. He contends that the observation and decision made by the learned Trial Court is based upon the evidences on record and the same is just and proper which needs no further interference by this Court. He further submits that all the mandatory provisions under NDPS Act, have been complied with and seizure is proved. There is no inconsistency in FIR, statements of PWs and seizure list and the issue involved therein are identical. According to learned Public Prosecutor, the discrepancies as pointed out by the learned counsel for the appellants appear to be minor ones and they do not shake the root of the case. So far the point regarding non-examination of independent witness is concerned, the place of occurrence was at 41 Miles which was a hilly area. Moreover, PW1 clearly stated that the place of occurrence was desolated. So, there is reasonable justification on the part of prosecution as to why no independent witness was available. Stating thus, learned Public Prosecutor urges this Court to dismiss the present appeal and to upheld the impugned judgment of conviction and sentence dated 29.02.2024 passed by the learned Special Judge (NDPS), Khowai, Tripura in case No. Special (NDPS) 08 of 2023.

[9] Mr. Raju Datta, learned Public Prosecutor, also relies on a decision of the Hon'ble Supreme Court in the case of **Rizwan Khan versus State of Chhattisgarh [(2020) 9 SCC 627]** wherein Hon'ble the Supreme 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 [State of H.P. v. Pardeep Kumar, (2018) 13 SCC 808 : (2019) 1 SCC (Cri) 420]].

14. Applying the law laid down by this Court on the evidence of police officials/police witnesses to the facts of the case in hand, referred to hereinabove, we are of the opinion as the police witnesses are found to be reliable and trustworthy, no error has been committed by both the courts below in convicting the accused relying upon the deposition of the police officials.”

[10] Though there are evidences of many witnesses examined during the trial of the case but this Court is considering only the evidences of vital witnesses for proper and effective adjudication of the case.

(i) PW1, SI Ranjit Sarkar being the SI of Police at Mungiakami PS deposed before the Court below that on 05.04.2023 at about 1410 hours, he along with other police personnel went to 41 Miles for vehicle checking and at about 1610 hours, they noticed one vehicle bearing registration No. TR 01 E 2409 (Bolero) going towards Ambassa from Teliamura side. PW1 further deposed before the court below that they showed stop signal but the vehicle ignored the signal and somehow they could manage to stop the vehicle and they noticed some brown colored packets protruding from the ceiling of the vehicle and those were concealed in the ceiling. PW1 also deposed before the court below that immediately, he informed the O/C P/S and the SDPO, Teliamura and requested O/C P/S to come to the spot with all the equipment relating to NDPS case. After sometime the O/C PS, SDPO, Teliamura and Executive Magistrate Sushil Kumar Reang, BDO Mungiakami reached the

spot and prepared the pre-search memo. PW1 further deposed that after obtaining the authorization from the SDPO he started searching the vehicle and on searching they found 25 packets of dry ganja whose quantity was 115 kg 600 gram. PW1 further deposed that they gave a notice under Section 50 of NDPS Act to search the accused persons and they got driving licenses and mobile sets from Titan Miah and Rubel Miah and also found one driving license from Prasenjit Das. Accordingly, they seized the contraband items, the vehicle, three driving licenses and two mobile sets by preparing a seizure list. They also arrested all the accused persons. PW1 deposed that he prepared the pre-search memo and the entire team returned to the P/S with the seized alamats and all the accused persons. PW1 further deposed that subsequently, he submitted a suo-moto complaint before the O/C Mungiakami P/S and identified all the accused in the dock.

During cross-examination he admitted that he did not enclose the pre-search memo, search memo and seizure-list with the suo-moto complaint and did not annex any paper with the suo-moto complaint to show that on the relevant date and time, he was on duty.

(ii) PW2 C/12411 Manoranjan Rupini who is the Constable at Mungiakami PS, deposed before the Court below that on 05.04.2023 at about 1410 hours, he along with other police personnel went to 41 Miles for vehicle checking and while checking the vehicle bearing registration no. TR. 01 E 2409 (Bolero) they noticed packets with dry ganja and his higher authority seized the ganja. PW2 identified all the accused persons in the court below.

Being confronted with cross-examination, PW2 admitted that he could not say the contents of the papers, on which he put his signatures. He further deposed that the frequency of the vehicles at the place of occurrence is very good. He further deposed that there were houses at a distance of 200 meter from the place of occurrence. He further admitted that there was a SPO camp near the place of occurrence. Apart from this rest part of his cross-examination is that of denial.

(iii) PW3 C/12394 Karna Charan Jamatia, Constable at Mungiakami PS, deposed before the Court below that on 05.04.2023 at about 1410 hours, he along with SI Ranjit Sarkar and others went to 41 Miles for vehicle checking duty and at about 4:10 pm they stopped one vehicle bearing registration no. TR 01 E 2409 (Bolero) for checking and they noticed packets with dry ganja in the vehicle. Then SI, Ranjit Sarkar informed the O/C P/S and the SDPO, O/C P/S. The SDPO, O/C P/S and DCM went to the spot and seized 25 packets of ganja which was 215 kg 600 grams.

During cross-examination he admitted that there were houses at a distance of 100/200 meter from the place of occurrence. He further deposed that the frequency of the vehicles at the place of occurrence was good. He further deposed that he had been on duty at the same place of occurrence prior to the incident also. Apart from this rest part of his cross-examination is that of denial.

(iv) PW4 SPO/033 Sujit Sarkar, who is the SPO at Mungiakami PS, deposed before the Court below that on 05.04.2023 at about 1410 hours, he alongwith SI, Ranjit Sarkar and others went to 41 Miles for vehicle checking duty and at about 4:10 pm they stopped one vehicle bearing registration no.

TR 01 E 2409 (Bolero) for checking. PW4 further deposed that they noticed packets with suspected dry ganja in the vehicle and then SI Ranjit Sarkar informed the O/C PS and the SDPO, O/C P/S and others went to the spot and seized 25 packets of ganja which was 215 kg 600 grams.

During cross-examination he stated that there were houses at a distance of 100/200 meter from the place of occurrence. He further deposed that the frequency of the vehicles at the place of occurrence was good and he had been on duty at the same place of occurrence prior to the incident also. Apart from this rest part of his cross-examination is that of denial.

(v) PW7 C/12497 Biplab Datta, Constable at Khowai SP Office deposed before the Court below that on 13.04.2023 as per the requisition of SI Francis Halam, he handed over one written intimation regarding search and seizure with detailed report under Section 57 of NDPS Act and one report under Section 42(2) of NDPS Act and SI Francis Halam seized the said documents and on being asked by SI Francis Halam, he put his signature on the seizure list.

During cross-examination he stated that the information received from different police stations was maintained by certain officer in their office. He further admitted that it was not given any written authorization from his superior authority to hand over any document relating to this case to the IO. He further admitted that generally one permission was required by the concerned officer to hand over any document / paper to anybody. Apart from this rest part of his cross-examination is that of denial.

(vi) PW8 Sri Suman Kr. Chakraborty, Deputy Director in SFSL, deposed before the Court below that on 17.04.2023 their office received one sealed packet forwarded by SDPO, Teliamura containing Exhibits in connection with Mungiakami PS Case No. 2023 MGK 005 dated 05.04.2023 which was received through special messenger C/12460 Tarun Debbarma of Mungiakami PS. PW8 further deposed that the parcel description and the exhibit description were given elaborately in his report and the exhibits were marked in the laboratory as CHEM/144/23 (A1) to (E1) which were examined from 03.05.2023 to 06.05.2023 by the methods mentioned in his report and the exhibits marked as 'A1' to 'E1' were detected to be ganja (cannabis). The remnants of the exhibit had been returned separately under sealed cover and the report in two pages were prepared by him and typed on his office computer and both pages bear his signatures vide report No. SFSL 365/23/CHEM/144/23, dated 06.05.2023. PW8 also deposed before the court below that he knew the handwriting of the Director-in-charge, Dr. S. Nath as he was a colleague for a considerable period.

During cross-examination he admitted that on 17.04.2023 he was not on leave. He further stated that he could not remember whether he received the parcel or not. Apart from this rest part of his cross examination is that of denial.

[11] This Court has carefully considered the entire evidence on record, the impugned judgment of conviction and sentence, and the submissions advanced by the learned counsel for the appellants, as well as the learned Public Prosecutor appearing for the State. After reviewing all of the material on record and the findings made by the Courts below, we are of the opinion that as the official witnesses are found to be reliable and

trustworthy, no error has been committed by the learned Court below in convicting the accused relying upon the deposition of the officials and in the present case the prosecution has been successful in proving the case against the accused by examining the witnesses. However, all the official witnesses have been thoroughly cross-examined by the defence. There is no allegation of any enmity between the official witnesses and the accused. No such defence has been taken in the statement under Section 313 Cr.P.C. There is no law that the evidence of officials, unless supported by independent evidence, is to be discarded and/or unworthy of acceptance. It is settled law that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by independent witness and examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case.

[12] This Court is of the view that the submission made from the side of the appellants regarding discrepancies of the evidences appear to be of not much significance and hence, those discrepancies could not shake root of the case.

[13] Consequently, we do not find any infirmity in the findings arrived at by the learned Special Judge (NDPS), Khowai, Tripura while convicting and sentencing the accused-appellants. Accordingly, the judgment of conviction and sentence dated 29.02.2024 passed by the learned Special Judge (NDPS), Khowai, Tripura in case No. Special (NDPS) 08 of 2023 is affirmed and upheld.

[14] Thus, the instant appeal preferred by the appellants is hereby dismissed. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

[15] Send down the LCRs forthwith.

S. Datta Purkayastha, J.

Dr. T. Amarnath Goud, J.

