

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A. NO.49 OF 2025**

The State of Tripura,
Represented by the Secretary,
Home Department, Government of Tripura.

.....Appellant

VERSUS

Rup Miah,
S/o Bajlu Miah,
Rahimpur, Purbapara, P.S.-Kalamchoura,
District-Sepahijala.

.....Respondents

For Appellant(s) : Mr. R. Datta, P.P.
Mr. R. Saha, Addl. P.P.

For Respondent(s) : None.

Date of hearing and delivery
of judgment and order : 11.03.2026.

Whether fit for reporting : YES/NO.

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

JUDGMENT & ORDER (ORAL)

1. This present appeal has been filed against the Judgment/Order dated 18.05.2024 passed by the learned Special Judge(NDPS), Sepahijala Tripura, Sonamura in case No.Special(NDPS) 15 of 2024, whereby the respondent-accused person was acquitted from the charge under Section 20(b)(ii)(C)/25/29 of NDPS Act.

2. The brief facts of the case are that on 13.11.2023 at about 12:50 hours, on the basis of secret information, the informant along with other staff conducted a raid and search at the house of the accused at Rahimpur, Purba Para under Kalamchoura Police Station. During the search, 57 kg of dry ganja was allegedly recovered from the possession of the accused. After completion of search and seizure, the informant lodged a *suo motu* complaint at Kalamchoura Police Station.

3. On the basis of the said complaint, Kalamchoura P.S. Case No. 2023/KLC/098 dated 13.11.2023 was registered under Sections 20(b)(ii)(C)/25/29 of the NDPS Act. After completion of investigation, the Investigating Officer submitted charge-sheet against the respondent under the aforesaid sections. The learned Special Judge (NDPS), Sepahijala, Sonamura took cognizance of the offences and, after supplying copies of the prosecution documents to the accused, framed charges under Sections 20(b)(ii)(C)/25/29 of the NDPS Act. The accused pleaded not guilty and claimed to be tried.

4. During trial, the learned trial court examined only 5 witnesses out of 9 cited prosecution witnesses and thereafter closed the prosecution evidence. After examination of the accused under Section 313 of Cr.P.C., the learned Special Judge (NDPS), Sepahijala, Sonamura by Judgment dated 18.05.2024 acquitted the accused on the ground that the seizure witnesses failed to prove the seizure and the prosecution failed to establish the charges beyond reasonable doubt.

5. Having been aggrieved by and dissatisfied with the aforesaid Judgment dated 18.05.2024, the appellant has preferred this present appeal seeking to set aside the impugned Judgment dated 18.05.2024 passed by the learned Special Judge(NDPS), Sepahijala Tripura, Sonamura in Case No.Special(NDPS)15 of 2024 and convict the respondents against the charge under Section 20(b)(ii)(C)/25/29 of NDPS Act and remand back the case to the Court of learned Special Judge(NDPS), Sepahijala Tripura, Sonamura and give reasonable opportunity to the prosecution agency to produce their prosecution witnesses for proving their case.

6. Heard Mr. R. Datta, learned P.P., appearing for the appellant-State. Despite proper service of notice, none appears for the respondent.

7. Mr. Datta, learned P.P., submits that the learned trial court committed a serious error in closing the prosecution evidence without granting reasonable opportunity to the prosecution to examine the remaining cited witnesses. It is submitted that out of 9(nine) cited witnesses only five were examined, and without issuing further process for the remaining witnesses the evidence was closed and the accused was acquitted. It is further submitted that in a similar situation this Court, in Criminal Appeal No. 4 of 2025, had remanded the matter back to the learned Special Judge for conducting a fresh trial by giving opportunity to the prosecution to examine all the witnesses.

8. In all fairness, the learned Public Prosecutor submitted before this Court that about 150 cases were decided within a short span of time and all resulted in acquittal. When enquiry was made with the Public Prosecutor of the trial court, he tendered his resignation. It was submitted that but for the fault of the said Public Prosecutor in not properly conducting the matters, the State had serious doubts regarding his integrity and his resignation was accordingly obtained. Consequently, the State has preferred several appeals and the present case is one such appeal where interference of this Court is warranted, as there appears to be a gross violation of the provisions of the Cr.P.C. in proceeding with the trial without affording adequate opportunity to the prosecution. There was no necessity to dispose of the matter within such a short period.

9. Having considered the submissions made by the learned Public Prosecutor and on perusal of the records, this Court finds that the learned trial court closed the prosecution evidence after examining only a few witnesses out of the cited prosecution witnesses. It appears that no effective opportunity was granted to the prosecution to secure the presence of the remaining witnesses. The trial court ought to have exercised its powers under the provisions of the Code of Criminal Procedure to ensure attendance of the remaining prosecution witnesses before closing the evidence. Such premature closure of prosecution evidence has resulted in denial of reasonable opportunity to the prosecution to establish its case and therefore the impugned judgment of acquittal cannot be sustained in the eye of law.

10. Accordingly, the matter is remanded back to the concerned trial Court with a direction to conduct a fresh trial by calling upon the witnesses of the prosecution afresh and further allowing the prosecution to prove the relevant documents in support of the prosecution case allowing the accused to conduct the defence properly and thereupon to deliver a fresh judgment in accordance with law. However, it is made clear that if the parties want to rely upon the earlier evidence on record, in that case, the learned Special Judge may examine the rest witnesses after hearing both the sides affording reasonable opportunities to the parties. The trial shall be conducted as expeditiously as possible. The respondent is hereby directed to surrender before the Learned Trial Court on or before 31.03.2026. On his surrender, the learned Trial Court may consider bail application if so filed, in accordance with law, so that his right is not infringed.

11. Accordingly, the present appeal is allowed and the impugned Judgment and Order dated 18.05.2024 stands set aside and matter is remanded back with the above mentioned directions and observation. As a sequel, stay if any stands vacated. Pending application(s) if any also stands closed.

S. DATTA PURKAYASTHA, J

DR. T. AMARNATH GOUD, J

Suhanjit

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SUHANJIT SINGHA

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