

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A. NO.38 OF 2025**

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

.....Appellant

VERSUS

1. Mintu Shil,
S/o Krishna Kanta Shil,
Resident of Manikya Nagar,
P.S.- Kalamchoura, Distract- Sepahijala Tripura.

2. Ratan Nama,
S/o- Krishnadhan Nama resident of Manikya Nagar,
P.S.-Kalamchoura, District-Sepahijala Tripura.

3. Mithan Nama,
S/o Sri Ratan Ch. Datta,
Resident of Manikya Nagar, P.S.- Kalamchoura,
District- Sepahijala Tripura.

.....Respondents

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

For Respondent(s) : Mr. Anjan Kanti Pal, Advocate.
Mr. T.K. Bhattacharjee, Advocate.

Date of hearing and delivery
of judgment and order : 20.01.2026.

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 under Section 419(1)(b) of BNSS against the Judgment dated 30.09.2024 passed by the learned Special Judge (NDPS), Sepahijala, Tripura, Sonamura, in Case No. Special (NDPS) 45 of 2024,

whereby the respondent-accused persons were acquitted of the charge under Sections 20(b)(ii)(C)/25/29 of the NDPS Act.

2. The brief facts of this case are that on 16.02.2024, secret information was received from a reliable source that a huge quantity of dry ganja was being packed at a secret place inside the jungle of Manikyanagar (Chaita Talli). Thereafter, the complainant along with other officials conducted a raid at the spot and detained all the accused persons. During the search and raid in the aforesaid area, they recovered 90.0 kg of dry ganja in 6 (six) sacks and a plastic drum from the possession of the accused persons. On completion of search and seizure, he lodged a suo motu complaint at Kalamchoura P.S. bearing Case No. 2024/KLC/004 dated 16.02.2024 under Sections 20(b)(ii)(C)/25/29 of the NDPS Act against the accused persons. After investigation, the I.O. submitted the charge-sheet under NDPS Act, and the learned Trial Court framed charge against the respondents. However, without affording reasonable opportunity to the prosecution to produce their witnesses, and after examining only 5 (five) prosecution witnesses, the learned Trial Court closed the prosecution evidence, and the learned Special Judge (NDPS), Sonamura, Sepahijala, acquitted the respondents. Hence, this appeal seeking the following reliefs:-

“(a) admit this appeal,

(b) issue notice upon the Respondents,

(c) Call for the records and after hearing be pleased to set aside the Judgment dated 30.09.2024 passed by the Ld. Special Judge (NDPS), Sepahijala Tripura, Sonamura in case No. Special (NDPS) 45 of 2024 and convict the respondents against the charge under 20(b)(ii) (C)/25/29 of NDPS Act and remand back the case to the court of Ld. Special Judge (NDPS), Sepahijala Tripura, Sonamura and give reasonable opportunity to the prosecution agency to produce their prosecution witnesses for proving their case.

(d) To pass such order/orders as to this Hon'ble Court may seem fit.”

3. Heard Mr. R. Datta, learned P.P., appearing for the appellant-State, as well as Mr. A.K. Pal, learned counsel appearing for the respondent.

4. Mr. Datta, learned P.P., submits that the learned Trial Court did not give the prosecution sufficient opportunity and acquitted the respondents without recording the evidence of the cited prosecution witnesses (CPWs), including the complainant. The learned Trial Court did not consider that the service reports of summons issued upon all the prosecution witnesses were never returned after service, and at no point of time were notices upon the prosecution witnesses in

connection with the present case served by the learned Trial Court. Learned P.P. further pointed out the orders dated 25.07.2024 and 23.08.2024 in this regard. Learned P.P. further submitted that in similar matters arising from analogous circumstances, wherein the evidence of prosecution witnesses was closed by the learned Special Judge without affording reasonable opportunity to the prosecution to establish their case, this Court remanded the matter back to the learned Special Judge with a direction to conduct a fresh trial by summoning all prosecution witnesses. Submitting this, learned P.P. urged this Court to allow this appeal and remand the matter back and give reasonable opportunity to the prosecution agency to produce their prosecution witnesses for proving their case.

5. Heard and perused the evidence on record.

6. In view of the submissions made by the learned P.P., and after perusing the evidence on record, this Court is of the considered view that the learned Trial Court closed the prosecution evidence prematurely without affording a proper opportunity to the prosecution to examine the remaining cited witnesses. Such a course of action was not in conformity with the procedure prescribed under law. Consequently, the Judgment and Order dated 30.09.2024 passed by the learned Special Judge (NDPS), Sepahijala, Sonamura, in Case No. Special (NDPS) 45 of 2024 is hereby set aside.

7. Accordingly, the matter is remanded back to the learned Special Judge (NDPS), Sonamura, Sepahijala, with a direction to conduct a fresh trial by calling upon all the witnesses of the prosecution. 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 remaining unexamined witnesses and deliver a fresh judgment in accordance with law by affording all opportunities to the parties. The trial shall also be completed as expeditiously as possible.

8. The appeal is accordingly allowed. As a sequel, the stay, if any, stands vacated. Pending application(s), if any, also stand closed.

S. DATTA PURKAYASTHA, J

DR. T. AMARNATH GOUD, J

Suhanjit

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SUHANJIT SINGHA
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