

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.A No. 31 of 2024

The State of Tripura,

Represented by the Secretary, Home Department, Government of Tripura

.....Appellant(s)

Versus

Sri Jayanta Chandra Naha,

S/o Sri Sankar Naha resident of Matinagar, P.S. Sonamura, District Sepahijala
Tripura

.....Respondent(s)

For Appellant(s) : Mr. Raju Datta, P.P.

For Respondent(s) : Mr. A.K. Pal, Advocate

Date of hearing and delivery
of judgment and order : 03.02.2026.

Whether fit for reporting : No.

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

JUDGMENT & ORDER (ORAL)

[Dr. T. Amarnath Goud, J.]

[1] When the case is called, Mr. Raju Datta, learned P.P. appears for the appellant. Mr. A.K. Pal, learned counsel appears on behalf of the respondent.

[2] The present appeal has been filed under Section 419(1)(b) of BNSS, 2023 against the judgment dated 12.09.2024 passed by the learned Special Judge, Sepahijala, Sonamura in Special (NDPS) 33 of 2024 whereby the respondent-accused was acquitted from the charges under Sections 20(b)(ii)(C)/25/29 of the NDPS Act, 1985.

[3] The appellant-State has filed 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 12.09.2024 passed by the Ld. Special Judge (NDPS), Sepahijala Tripura, Sonamura in case No. Special (NDPS) 33 of 2024 and convict the respondents against the charge under Sections 20(b)(ii)(C)/25/29 of NDPS Act,

AND

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

[4] Brief facts of the case, as discussed in the present appeal are that on 08.03.2024 at 1420 hours on the basis of secret information, the complainant SI Tapan Das accompanied by OC Sonamura PS along with others staff conducted raid and search in the house of the respondent namely Jayanta Naha at Matinagar, Sonamura. During search they recovered 5 Nos. of blue colour plastic drum and 1 plastic sack containing suspected dry ganja. On weighing, total 254 kg of dry ganja was recovered from those plastic drums and sack which were then seized following due process of law. On completion of search and seizure, the complainant SI Tapan Das lodged a suo moto complaint at Sonamura PS against the respondent. On the basis of said complaint, Sonamura PS case No. 2024/SNM/022 dated 08.03.2024 under Sections 20(b)(ii)(C)/25/29 of NDPS Act, 1985 was registered against the respondent herein. After investigation, charge-sheet was submitted against the respondent and charge was framed under Sections 20(b)(ii)(C)/25/29 of NDPS Act against the respondent herein. After completion of the trial, the learned Special Judge, Sepahijala District, Sonamura acquitted the accused person on the ground that there was non-compliance of Section 42(2) of NDPS Act in this case, the prosecution also failed to prove seizure of contraband through independent seizure witness and also on the ground that prosecution failed to prove chain of possession of contraband from the time it was seized till it was forwarded to SFSL for forensic examination. Being aggrieved, the appellant-State has preferred the instant appeal seeking the above-quoted reliefs.

[5] Mr. Raju Datta, learned P.P. appearing for the appellant-State submits that learned Trial Court failed to consider that the information was noted down in the GD Entry No.30 dated 08.03.2024 and on the same day, the Investigating Officer communicated the information giving the details of storage of contraband goods in the house of the accused-respondent to the SDPO, Sonamura, Sepahijala through the Officer In-Charge, Sonamura PS. The SDPO gave authorization to the Investigating Officer directing him to search and seize such substances, articles, things, documents vide his letter dated 08.03.2024 communicated to the said Investigating Officer through OC Sonamura police station and as such there was compliance of Section 42(2) of NDPS Act. It is further contended that although those documents were part of the record but the said documents were not exhibited by the learned Trial Court. Learned P.P. further submits that learned Trial Court committed error in holding that testimony of official witnesses cannot be accepted as there is no other independent

seizure witness. In this regard, learned P.P. relied on the decision of the Hon'ble Supreme Court in the case of ***Rizwan Khan vs. State of Chhattisgarh*** reported in (2020) 9 SCC 627 wherein at Paragraph No.12, the followings were observed:

“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 State of H.P. vs. Pardeep Kumar, (2018) 13 SCC 808.

Mr. Datta, learned P.P. therefore, urges before this Court to set aside the impugned judgment dated 12.09.2024 passed by the learned Special Judge (NDPS), Sepahijala Tripura, Sonamura in case No. Special (NDPS) 33 of 2024.

[6] Mr. A.K. Pal, learned counsel of the respondent on the other hand strongly opposed the submission made by Mr. Datta, learned P.P. and drawn the attention of this Court that considering the evidence on record learned Trial Court rightly and reasonably has passed the order of acquittal and there is no scope to interfere with the findings of the learned Trial Court. Mr. Pal, learned counsel further submits that there was total non-compliance of the provisions of Section 42(2) of NDPS Act by the prosecution before the learned Trial Court and prayed for dismissal of the appeal.

[7] Heard the submissions made at the Bar. Perused the material evidence on record.

[8] Upon hearing the submissions made at the Bar and on perusal of record, this Court is of the view that admittedly, the secret information was conveyed by the concerned officer to the higher authority and as such, provisions of Section 42(2) of the NDPS Act have been complied with. It is also observed that those documents which were part of the record, the same were not exhibited by the learned Trial Court. This Court opines that ends of justice would be met if these documents which were part of the record are exhibited by the learned Trial Court.

[9] In view of the above, this Court is of the opinion that the matter needs to be remanded back to the learned Trial Court to conduct a fresh trial by calling upon the witnesses afresh allowing the prosecution to prove the relevant documents in support of the prosecution case and thereafter to deliver a fresh judgment in

accordance with law. Both the parties shall also cooperate with the court proceedings.

[10] With the above observation and direction, 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. Since, the respondent is acquitted by the learned Trial Court and the matter is remanded back, the respondent is hereby directed to surrender before the learned Trial Court on or before 20.02.2026. On his surrender, the learned Trial Court may consider bail application if any, filed by him in accordance with law, so that his right is not infringed.

[11] Resultantly, the impugned judgment dated 12.09.2024 passed by the learned Special Judge, Sepahijala, Sonamura in Special (NDPS) 33 of 2024 is set aside and the instant appeal filed by the appellant is hereby allowed and disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

S. Datta Purkayastha, J.

Dr. T. Amarnath Goud, J.