

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC(CrI.A.) No. 8 of 2024

Lalthang Lhouvum

Applicant

Vs.

State of Manipur

Respondent

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL**

01.03.2024

Mr. Serto T. Kom, learned counsel, appears on behalf of the applicant through video-conferencing; and Mr. Athouba Khaidem, learned PP, appears on behalf of the State.

The present application has been instituted on behalf of the applicant, Mr. Lalthang Lhouvum, praying as follows:-

"In the premises stated above, it is prayed that your Lordships be pleased to allow the proposed amendment of the above referred Cril. Appeal No. 11 of 2020, by inserting the sub-para no. 1. (which is reproduced at para no. 2 of this application) just below sub-para no. H. of the para no. 9 of the existing Cril.Appeal."

A perusal of the averment made in the application clearly reflects that the amendment prayed for is a pure question of law in as much as it states as follows:-

2. That, in this application, the applicant prays for allowing the amendment of the above referred Cril. Appeal No. 11 of 2020, by inserting the sub-para no. I., just below sub-para no. H. of the para no. 9 of the existing Cril.Appeal, which is reproduced hereunder;

"I. Non compliance of sub-sec(2) of sec. 52 A of NDPS Act:

That, the respondent has failed to comply with sub-sec (2) of Sec 52A of the NDPS Act and as such, materials on record before the trial court does not include materials to show that;

Firstly, *a Magistrate certified the correctness of inventory prepared;*

Secondly, *photographs of the alleged drug substance and conveyances were taken in the presence of a magistrate and certifying such photographs as true and,*

Thirdly, *representative samples of the alleged drug substances was drawn in the presence of a Magistrate and Certifying the correctness of any list of samples so drawn;*

The Petitioner humbly submits that, in a catena of cases the Hon'ble Supreme Court has held that the procedures mandated u/s 52A of the NDPS are to be complied and non compliance of the same vitiate the trial as the compliance of the said procedure are held to be primary evidence in the trial of NDPS related cases."

In view of the foregoing, learned PP appearing on behalf of the State, would submit that the question of law sought to be articulated by way of a present amendment may be allowed.

In view of the foregoing, the present application is allowed.

Amended recast appeal be filed within 2(two) weeks, after providing an advance copy to the learned PP.

CHIEF JUSTICE

Indrajeet