

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

**Crl.A. No. 18 of 2022**

Md. Safiqur Rahaman

*....Appellant*

- Versus -

State of Manipur

*...Respondent*

**BEFORE**

**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

31.07.2023

**[1]** Present Mr. L. Seityandra, learned counsel for the appellant; and Mr. Y. Ashang, learned PP for the State.

**[2]** The present appeal has been filed under Section 374(2) Cr.P.C against the order dated 11.11.2022 passed by learned Special Judge (ND&PS), Manipur in Special Trial Case No. 71 of 2016. By the impugned order, the appellant was convicted under Section 21(c) ND&PS Act for unauthorized possession of 16,200 numbers of S.P. Capsules. Since the appellant was not present before the Court on the day of pronouncement of the order of conviction, the Court directed the accused to surrender on or before 23.11.2023 for pronouncement of sentence. Before the order of sentence is passed, the appellant approached this Court by way of the present appeal on 29.11.2022. Vide order dated 14.12.2022, this Court issued notice and fixed the matter for objection of the State on the maintainability of the present appeal.

**[3]** Mr. Y. Ashang, learned PP, submits at the outset that the present appeal is not maintainable under Section 374(2) Cr.P.C as the order of

sentence is yet to be passed by the Trial Court and as such the appeal is not maintainable in the present form and may be rejected at the threshold.

**[4]** Mr. L. Seityandra, learned counsel for the appellant, submits that the Trial Court be directed to conduct the sentence proceedings without the presence of the appellant and may be represented by his counsel.

**[5]** This Court considered the rival submissions of the party at the Bar and the relevant provisions of law. It is settled proposition of law that in a case of conviction, the trial concludes upon pronouncement of sentence by the Trial Court after conviction. In the present case, the sentence is yet to be pronounced as the appellant/convict has not appeared before the Court for the sentence proceedings. Hence, the present appeal is premature and is not maintainable in the present form. With regard to the submission of the learned counsel for the appellant for hearing of the sentence without the presence of the accused, the same cannot be sustained as hearing of the sentence is to be conducted in presence of the accused/convict in person.

**[6]** Accordingly, the present appeal is dismissed as not maintainable in the present form.

**[7]** The appellant may approached this Court after pronouncement of the sentence, if any, and in accordance with law.

**[8]** With these observations, the appeal is disposed of.

**[9]** Send a copy of this order to the learned Special Judge (ND&PS), Manipur, for information.

**JUDGE**