

**HIGH COURT OF TRIPURA  
AGARTALA**

Crl. L.P. No.20 of 2024

The State of Tripura

---Petitioner(s)

Versus

Kajal Rekha

----Respondent(s)

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For Petitioner(s)	:	Mr. Raju Datta, P.P.
For Respondent(s)	:	Mr. Sankar Bhattacharjee, Adv. Mr. Subendu Noatia, Adv.

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**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Order**

**28/02/2025**

Learned P.P. Mr. Raju Datta is present for state.

Learned Counsel Mr. Sankar Bhattacharjee is present for the accused-respondent.

The prosecution has preferred this appeal challenging the judgment and order of acquittal dated 10.09.2024 delivered by Learned Special Judge (NDPS), Sepahijala District, Sonamura, in connection with case No. Special (NDPS) 19 of 2021.

Taking part in the hearing Learned P.P. has drawn the attention of the court that in course of the trial of this case Learned Special Judge has failed to examine some material witnesses for decision of the case and finally without ensuring their attendance delivered the judgment. So Learned P.P. urged for setting aside the order of acquittal by granting special leave to appeal.

On the other hand, Learned Counsel Mr. S. Bhattacharjee appearing for the accused-respondent drawn the attention of the court referring the evidence of PW-1 wherein there is evidence that the contraband items were seized from the dwelling hut of Khairuler Necha, but she was not prosecuted and chargesheeted by the prosecution in this case and on so many occasions inspite of giving opportunity the prosecution failed to produce the rest unexamined witnesses for recording their evidences and as such if

at this stage leave is granted and the appeal is admitted for the hearing then serious prejudice will be caused to the respondent-accused.

I have seen the copies of the order annexed with the petition and also the statement of some of the witnesses annexed with the memo of appeal filed by the prosecution. It is on record that in some occasions direction was given for issuing summons upon the witnesses but either the summons were not issued by the Court or inspite of issuing summons, the witnesses did not turn up. But it is the settled position of law that once the summons are being issued to any witnesses and if it is not served properly or if it is served and the witnesses does not turn up, in that case, the Court is to ensure the appearance of the witnesses by due process of law but here in the case at hand it appears that those procedures were not properly complied with. So, considering all, it appears to this Court that there are materials for proceeding with the appeal. Accordingly, the petition for special leave to appeal is allowed.

Thus, this present special leave to appeal is disposed of.

**JUDGE**