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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: 28th October, 2010

Date of Order: November 30, 2010

+ Crl. Revision No. 659/2010

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Sunil Kumar

30.11.2010

...Petitioner

Versus

State NCT of Delhi

...Respondent

Counsels:

Mr. R.P. Khatana and Mr. Satender Kumar for petitioner.

Mr. Sunil Sharma, APP for State/respondent.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. This criminal revision petition under Section 397 read with Section 401 and 482 Cr.P.C has been preferred by the petitioner against an order dated 3rd September 2010 passed by learned ASJ.

2. Brief facts relevant for the purpose of deciding this petition are that on 30th December 1993, Food Inspector visited the shop being run in the name of Sunil Kiryana Store in Main Market, Kondli. Accused Sunil Sharma was present at the shop doing business. When Inspectors of Food Department were in the process of collecting samples, father of Sunil Sharma namely Rajinder Kumar Sharma along with some persons came to the shop and started manhandling the officials and thereafter both father and son snatched the sample bottles from the Food Inspectors and manhandled them and pushed them out of the shop. The matter was reported to the police and an FIR under Sections 186, 353 IPC was registered and a complaint case under Food

Adulteration Act was also registered. The Food Department filed a complaint under Section 16(i) (c) of PFA Act and the police after investigation filed challan under Section 186/353 IPC. Both the cases were tried together and the trial court convicted both the accused persons under Section 16(i)(c) of PFA Act as well as under Section 186/353 IPC and sentenced the accused persons to undergo one year imprisonment with fine under PFA Act and two months with fine under Section 186 IPC and 3 months with fine under Section 353 IPC.

3. On appeal, conviction of both the accused persons was maintained by the appellate court, however, quantum of sentence was modified and accused Rajinder Kumar Sharma was given benefit of probation whereas sentence of Sunil Kumar Sharma was reduced to six months under PFA Act being the minimum sentence provided under the said Act and sentence under IPC was also maintained in respect of accused Sunil Sharma.

4. The learned counsel for the accused has only argued that the accused be let off on the imprisonment already undergone. While considering a revision, this Court has limitation. The Court can interfere with the order of the two courts below only if there is a jurisdictional error or the court below had passed an order totally contrary to the settled legal position. It is not the case here. The two courts below have given concurrent findings that accused Sunil Kumar and his father Rajinder Kumar Sharma manhandled Food Inspectors, pushed them out of the shop and snatched the samples. Looking at the highhandedness in which the accused persons acted, I find no reason to interfere with the judgment of the learned Sessions Court nor do I find it a case for leniency. The petition is hereby dismissed.

November 30, 2010
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SHIV NARAYAN DHINGRA, J