

Court No. - 69

Case :- CRIMINAL REVISION No. - 1698 of 2014

Revisionist :- Vinod Kumar

Opposite Party :- State Of U.P. And Anr.

Counsel for Revisionist :- D.P.S. Chauhan

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Sushant Mishra, learned counsel for the revisionist and Sri Shashi Kant Pandey, Learned counsel for the State and perused the record.
3. The trial court records have been received which have also been perused.
4. The present revision under Sections 397/401 Cr.P.C. has been preferred by the revisionist-**Vinod Kumar** against the judgement and order dated 18.02.2014 passed by Additional Session Judge, Court No. 6, Farrukhabad in Criminal Revision No. 82 of 2012 (Vinod Kumar Versus State) upholding the judgment and order dated 01.10.2011 passed by Additional Chief Judicial Magistrate, Farrukhabad, in Case No. 377 of 2006, whereby, the revisionist has been convicted for three months simple imprisonment with fine of Rs. 500/-and in default of payment of fine to further undergo five days additional imprisonment under section 7/16 Prevention of Food Adulteration Act.
5. It is argued by learned counsel for the revisionist that the recovery memo is a document which is shady in nature as the sample is alleged to be taken on 14.12.2003 but the signature and the date of the Food Inspector on it is 18.12.2003. It is argued that even otherwise the only allegation is of selling of food article gajak patti without license. It is argued that there is no evidence of the same being misbranded or adulterated. It is argued that as such conviction and sentence as awarded to the revisionist be set-aside, judgement & order of the trial court be set-aside and also the judgement & order of the appellate court be set-aside.
6. Per contra, learned counsel for the State has opposed the prayer and arguments and argued that the trial court has given

cogent reasons for convicting the revisionist.

7. After having heard learned counsel for the parties and perusing the record, it is evident that the case of the prosecution is that the collection of sample of gajak patti was done on 14.12.2003 but the recovery memo is signed as 18.12.2003. The same thus has variation which makes the collection of sample suspected. There is no adulteration in the food item or it is misbranded.

8. The present revision is **allowed**. The impugned judgement and order dated 18.02.2014 passed by Additional Session Judge, Court No. 6, Farrukhabad and judgment and order dated 01.10.2011 passed by Additional Chief Judicial Magistrate, Farrukhabad, are hereby set aside.

9. The revisionist- **Vinod Kumar** is acquitted of the charge levelled against him. The revisionist is in jail. He shall be released from jail forthwith unless wanted in other case on his furnishing a personal bond and two sureties to the satisfaction of the court concerned.

10. Office is directed to transmit the copy of this judgement along with the trial court records to the concerned trial court forthwith for its compliance and necessary action.

11. The file be consigned to records.

Order Date :- 22.11.2023

K.K. Maurya

(Samit Gopal,J.)