

Court No. - 69

Case :- CRIMINAL REVISION No. - 3567 of 2016

Revisionist :- Mahkar Singh

Opposite Party :- State of U.P.

Counsel for Revisionist :- Arvind K. Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Rajesh Kumar Bhatt, Advocate holding brief of Sri Gulab Singh Yadav, learned counsel for the revisionist and Sri Bade Lal Bind, learned counsel for the State and perused the material on 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- Mahkar Singh against the judgement and order dated 04.10.2016 passed by Additional Sessions Judge/Special Judge (SC/ST Act), Amroha in Criminal Appeal No. 34 of 2015 (Mahkar Singh Vs. State of U.P.) as well as against the judgment and order dated 13.05.2015 passed by Chief Judicial Magistrate, Jyotibaphule Nagar in Complaint Case No. 3367 of 2005 (State Vs. Mahkar Singh), under Section 7/16 the Prevention of Food Adulteration Act, 1954, P.S. Gajraula, whereby the learned trial court convicted and sentenced the revisionist under Section 7/16 of the PFA Act for six months imprisonment and fine of Rs. 2,000/- and in default of payment of fine, the revisionist shall undergo for ten days additional imprisonment.
5. The prosecution case as per the complaint filed by the Food Inspector F.G. Safdar is that on 18.06.2003 at about 09:30 am while doing inspection at Railway Station, Platform No. 1, Gajraula he introduced himself to the revisionist and found 7 liters milk stored which was to be used for the rail passengers by making tea. He purchased 750 ml mixed milk from the revisionist by giving money. He prepared samples of the same. The milk was found to be having milk fat less by 57% and milk solid not fat less by 8%. It is alleged that after filing of the complaint, notice under

Section 13(2) of the Prevention of Food Adulteration Act was sent to the revisionist.

6. Learned counsel for the revisionist argued that the revisionist is the only servant of the M/s Bhure Lal and Sons and he has nothing to do with the material available in the said stall. It is argued that there is no independent witness to the same. It is further argued that both the witnesses are persons of food inspector in which witness Ashok Kumar was neither examined nor produced before the concerned trial court. It is argued that the milk as kept in the shop was not displayed for sale but even as per the prosecution case was for making tea for passengers and persons at the railway station. 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.

7. Learned counsel for the State although opposed the arguments as aforesaid.

8. After having heard learned counsel for the parties and perused the records as well as perusal of the statements of the witnesses, it appears that the revisionist is neither the owner of the shop of the tea nor a contractor. One of the witness Ashok Kumar was neither examined nor produced before the concerned trial court while the said witness was present at the time of inspection along with Food Inspector F.G. Safdar. The material milk was not displayed for sale but was for making tea. There is no independent witness to the same.

9. In view of the same, the present revision is ***allowed***.

10. The revisionist- Mahkar Singh is acquitted of the charge levelled against him. The revisionist is on bail. His bail bond is cancelled and sureties discharged.

11. 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.

Order Date :- 30.11.2023

M. ARIF

(Samit Gopal, J.)