

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. A-587-MA of 2013

Date of decision : August 11, 2015

State (Food Inspector), Chandigarh Administration

....Appellant

versus

Rajan Arora

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Sukant Gupta, Addl. Public Prosecutor for the appellant
None for the respondent

Fateh Deep Singh, J. (Oral)

This is an appeal by the State through Food Inspector, Chandigarh Administration whereby challenge has been made to judgment of acquittal dated 12.3.2012 passed by learned Chief Judicial Magistrate, Chandigarh in a criminal complaint bearing No. 316 dated 24.12.2002, titled State through Food Inspector, Chandigarh Administration versus Rajan Arora. Initially against the impugned judgment dated 12.3.2002 passed by learned Chief Judicial Magistrate, Chandigarh, the State had preferred an appeal before the learned Additional Sessions Judge, Chandigarh and in view of the detailed orders passed on 13.12.2012 holding

that in view of the provisions enshrined in section 378(4) Cr.P.C. the appeal lies to the High Court and that is how the present matter has come up before this Court.

The brief facts that needs to be put forth are that Food Inspector, Chandigarh on 23.8.2002 carried inspection of the shop of M/s Foods Land owned by respondent Rajan Arora and found the accused in possession of 3 packets each of 454 grams of Al Kabeer Frozen Mutton Mince for public sale. After necessary formalities in the presence of private witness, the Food Inspector purchased 3 packets of the said item for analysis. After following the necessary precautions for drawing sample, the Food Inspector drew 3 different samples and duly sealed them. Out of these 3 samples, one was dispatched to the Public Analyst whereas other two samples were handed over to Local Health Authority for safe custody. On analysis, the Public Analyst gave his report that the product was not labeled in accordance with the provisions of Rule 32 of Prevention of Food Adulteration Rules, 1955 as batch/lot/code number have not been given which were mandatory besides absence of own logo that the item was non-vegetarian food and thus opined that it was misbranded. On the basis of this, the accused was put to trial.

The short point that has arisen in the instant appeal in the light of the arguments raised by Mr. Sukant Gupta, counsel for the appellant as

none inspite of due notice appeared for respondent, is whether a Food Inspector who has taken the sample as a private purchaser can lodge prosecution for the same and if a Food Inspector and private consumer are two different distinct from each other and no one can be a substitute for the other. In a Division Bench view in **State (Food Inspector) versus Babu Singh, 2014(1) R.C.R. (Criminal) 894** this Court has observed in para no. 7 of the above referred judgment that the scope of the Prevention of Food Adulteration Act, 1954 has been made wider with the amendment of Prevention of Food Adulteration (Amendment), Act 1986 with effect from 1.5.1987, thus empowering any purchaser of any article of food other than a Food Inspector, a recognized consumer association etc. from having such food article analysed by the Public Analyst subject to certain procedure. Referring to section 12 of the Act, it was held by the Hon'ble Division Bench that there is no bar to Food Inspector acting in such a manner as a private purchaser and in terms of section 20 of the Act, the prosecution for such an offence can be instituted even by purchaser after producing the copy of of the report of the Public Analyst along with the complaint and therefore, even by that scope it would be highly inappropriate to reach the conclusion as has been done in the impugned findings. Keeping in view these discussions, exercising the inherent jurisdiction of this Court in terms of section 482 Cr.P.C. and in view of the fact that since large number of

cases on similar count may be involved and having regard to greater public interest the provisions of the Act needs to be liberally construed with widest import and thus the impugned judgment is set aside by way of acceptance of the appeal and the matter as such is remanded back to the trial court to proceed ahead into the matter as per law.

August 11, 2015
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(Fateh Deep Singh)
Judge