

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Crl. Revn. No. 877 of 2007 (O&M)
Date of decision: February 02, 2015

Surender KumarPetitioner
Versus

State of Haryana and anr.Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mrs. Rahish Pahwa Dudeja , Advocate
for the petitioner.

Mr. Vikas Chopra, DAG, Haryana

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RITU BAHRI, J (Oral)

Present petition has been filed against the judgment of conviction and order of sentence dated 09.05.2007 passed by the Additional Sessions Judge, Faridabad, vide which the appeal against the judgment dated 17.10.2006 passed by the Chief Judicial Magistrate, Faridabad (hereinafter referred to as "the trial Court") was dismissed on merits but the sentence awarded to the petitioner by the trial Court, vide judgment dated 17.10.2006 was reduced from one year to six months.

As per the prosecution story, a complaint was instituted on 21.04.1997 by G.F.I Subhash Chand that he along with Dr. Ashok Gupta, Medical Officer, B.K. Hospital, Faridabad inspected the premises of the petitioner after disclosing their identity. They found the petitioner in his

possession two kgs tea contained in polythene bag for public sale. He was served with a notice on form VI which is Ex PA by G.F.I in the presence of Dr. Ashok Gupta. 450 grams tea was purchased from him on payment of Rs.45/- and after mixing the whole contents uniformly, G.F.I took the sample and divided the same into three equal parts and sealed the name into clean dry bottles as prescribed in the complaint. One bottle was sent to the Public Analyst Haryana, Chandigarh for analysts and report to the effect that "The sample contains 393 PPM of iron fillings against the maximum limit of 250 PPM. Copy of the said report was sent to the petitioner with a forwarding letter through registered post and then complaint was filed.

The accused was summoned and after going through the pre-charge evidence, he was served with a notice of accusation punishable under Sections 16(1)(a) (i) of the Prevention of Food Adulteration Act on 16.11.2014, to which he pleaded not guilty and claimed trial.

Statement of accused under Section 313 Cr.P.C was recorded wherein entire incriminating evidence appearing against him was put to him, however, he denied the same. No evidence in defence was led by the petitioner.

The trial Court after going through the entire evidence led by the prosecution, convicted and sentenced the accused-petitioner in the aforesaid terms.

Aggrieved by the aforesaid judgment, the accused-petitioner preferred an appeal which was dismissed by the Additional Sessions Judge (Adhoc), Fast Track Court Gurdaspur on merits, however, the sentence awarded to the petitioner was reduced from one year to six months.

Learned counsel for the petitioner, at the outset, does not challenge the order of conviction on merits and restricts his prayer to the quantum of sentence.

Having examined the impugned judgments, no illegality, much less irregularity, has been found therein warranting interference by this Court. Accordingly, they are upheld. However, a lenient view can be taken on the quantum of sentence of the petitioner.

The petition was admitted on 25.05.2007 and the petitioner was released on bail on the very same day. The petitioner had undergone about 16 days in custody. He has not misused the concession of bail during trial and is not facing any other criminal case.

The complaint was registered in the year 1997. The petitioner has been facing a protractive trial proceedings since 1997 i.e for almost 17 years. Petitioner has already suffered the agony of protracted trial, spinning over a period of time. Learned counsel prays that a lenient view be taken against the petitioner. He further submits that keeping in view the facts and mitigating circumstances of

the petitioner, some leniency be shown against the petitioner in the matter of sentence. The sentence of the imprisonment awarded to the petitioner is reduced to the period already undergone. However the amount of fine is enhanced from Rs. 1,000/- to Rs.2,000/-.

With the above modification in the matter of sentence, the criminal revision is dismissed on merits.

February 02, 2015
G Arora

(RITU BAHRI)
JUDGE