

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-883-2007

Date of decision : 04.09.2015

Jai Bhagwan

...Appellant

Versus

G.F.I. and another

...Respondents

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Bairagi, Advocate,
for the appellant.

Mr. Arun Luthra, AAG, Haryana.

JITENDRA CHAUHAN, J.

This revision petition assails the judgment dated 09.05.2007, passed by the learned Sessions Judge, Sonipat, whereby the appeal preferred by the petitioner against judgment of conviction and order of sentence dated 21.08.2006, passed by the Sub-Divisional Judicial Magistrate, Ganaur, has been dismissed, however, the sentence of imprisonment has been reduced from 01 year to 06 months, while maintaining the sentence of fine. The petitioner was convicted by the trial Court under Section 16(1)(a)(i) of the Prevention of Food Adulteration

Act, 1954, and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, with default clause. The present revision was admitted by this Court on 20.08.2007.

After arguing for some time, the learned counsel for the petitioner states that he does not challenge the judgment of conviction on merits. However, he prays that a lenient view may be taken in the matter of sentence.

From the perusal of the record, it is made out that the instant complaint was registered in the year 1995. Thus, the petitioner is facing the agony of protracted trial for last more than two decades. The sample of the milk taken from the petitioner was found to be marginally deficient. The petitioner has already undergone about 3 months and 11 days out of the substantive sentence of 06 months.

The learned counsel appearing for the State opposes the prayer and states that no leniency should be shown to the petitioner.

In **“Umrao Singh V. State of Haryana”**, 1981 AIR (SC) 1723, the Hon’ble Supreme Court observed as under:-

“After hearing counsel for the parties, we are satisfied that this is a case falling under the proviso of Section 16(1)(a)(i) and therefore, for adequate and special reasons, the sentence lower than the minimum

prescribed could be awarded. The High Court itself felt bound to award the minimum sentence but on merits was satisfied that if the legal position warranted the appellant could be given lesser sentence. We are in agreement with the view of the High Court. The appellant/petitioner is aged about 70 and suffering from asthma illness and has a clean past record. Besides, the percentage of deficiency that was noticed in the milk sold by him was 0.4% in the fat contents.

2. *Having regard to these facts, the expression of the view of the High Court was justified. We accordingly reduce the sentence of the appellant to the period already undergone. The sentence, of fine is maintained and we are informed that he has already paid the fine. Since he is already on bail, he should be released forthwith.*

3. *The appeal is disposed of accordingly”*

Similarly, in ***Radhey Shyam Aggarwal Vs. State of NCT Delhi, 2009(1) RCR (Criminal) 973***, the Hon'ble Supreme Court observed as under:-

“7. *Additionally, as rightly contended by learned counsel for the State no prejudice has been shown. In that view of the matter we are not inclined to accept*

the stand that there was any violation of the requirements of Section 16-A of the Act. However, we find that the occurrence took place nearly two decades back and the infractions related to a small quantity of 'lal mirch'. The sentence imposed is 15 months. It is accepted that the appellant has already suffered custody for more than a year. That being so, in the peculiar circumstances of the case we reduce the sentence to the period already undergone. Bail bonds executed for giving effect to order for bail dated 11.2.2002 shall stand discharged. With the aforesaid modification of sentence the appeal is disposed of."

For the aforesaid reasons, I am of the considered view that the sentence/imprisonment already undergone by the petitioner will meet the ends of justice.

Consequently, the judgment of conviction recorded against the petitioner, as mentioned above, is maintained. However, the order of sentence of rigorous imprisonment is modified and reduced to one already undergone by him. The sentence of fine awarded to the petitioner is, however, enhanced to Rs.25,000/-, over and above the fine already imposed by the learned trial Court. He shall deposit this amount before the Chief

Judicial Magistrate, Sonipat, within a period of four months from the date of receipt of a certified copy of this order.

In case, the petitioner fails to comply with the direction of depositing the amount of fine in the Court of learned CJM, Sonipat, within period stipulated above, this revision petition shall be deemed to have been dismissed.

With the above modification in the order of conviction, the present petition stands dismissed.

September 04, 2015
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(JITENDRA CHAUHAN)
JUDGE