

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

CRM-A NO.763-MA-2010 (O&M)
DATE OF DECISION : 22nd OCTOBER, 2016

State of Haryana

.... Applicant/appellant

Versus

Sachin Kumar

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Ms. Tanu Shree Gupta, DAG, Haryana
for the applicant-appellant.

Mr. S. K. Chaudhary, Advocate for the respondent.

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A. B. CHAUDHARI, J. (ORAL)

Heard learned State counsel. She vehemently argued assailing the impugned judgment and order that the order of acquittal passed by the trial court is perverse, contrary to the record and as such liable to be set aside. She prays for order of conviction against the respondent.

Per contra, learned counsel for the respondent-accused supported the impugned judgment and order and submitted that there is no evidence on record, much less in the nature of corroboration that the Food Inspector who had alleged that he was prevented taking sample of ice cream.

The prosecution case is based merely on the allegation that the petitioner prevented the taking of sample. The learned counsel for the respondent-accused submitted that the witness examined by the

prosecution on the contrary admitted that prevention of taking sample never took place.

I have perused the reasons given by the learned trial Judge in the impugned judgment and order. The learned trial Judge has recorded a categorical finding in paragraph 10 that it was highly improbable to believe the version of Food Inspector that the Food Inspector was prevented from taking the sample of ice cream. Had such incident really taken place, the Food Inspector would not have failed to make report to the police station about the incident. Since, as a public servant he was allegedly prevented but however that did not happen, at any rate the view taken by the trial Judge is probable and possible view.

In the light of the principle in appeals against acquittal as laid down by the Apex Court and in view of the fact that the incident in question is to be of the year 2003, I do not think that the order of acquittal can be in any manner faltered. The order of acquittal therefore will have to be upheld. In the result, I find no merits in the present appeal, therefore the appeal against acquittal stands dismissed.

22nd OCTOBER, 2016
‘raj’

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No.