

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.1464 of 2004

Date of Decision : May 09, 2016

Jarnail Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Vishal Yadav, Advocate for
Mr. Ajay Ghangas, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S. MANN, J.

The petitioner was tried for committing the offence under Section 7 read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act'). Vide judgment and order dated 26/27.11.1998, learned Chief Judicial Magistrate, Panipat convicted him for the offence under Section 16(1)(a)(i) of the Act and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. The fine amount was paid there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but the same was dismissed by learned Additional Sessions Judge, Panipat vide judgment dated 16.7.2004. Hence, the present revision in which he is currently on bail pursuant to order dated 26.7.2004.

In nutshell, the case of the prosecution is that on 27.11.1992 at 8.45 a.m., Shri Amar Nath Sharma, Government Food Inspector intercepted the petitioner at Barsat Road, Panipat, who was carrying 15 lts. of buffalo's milk in a can for public sale. The Government Food Inspector demanded a sample of the milk after serving a notice in writing on Form VI. 750 mls. of buffalo's milk was purchased for Rs.5/- and after mixing the whole contents properly and making the same uniform for analysis, the sample was divided into three equal parts and put into separate bottles. Preservative was added in each bottle. The bottles were duly sealed and secured. One sealed bottle, alongwith Form VII with specimen impressions of the seals was sent to the Public Analyst, Haryana, whereas the other two sealed samples were deposited with the Local Health Authority, Panipat. On analysis, the sample was found to contain milk fat 5.8% and milk solids not fat 8.1%. As the milk fat was deficient by 3% and milk solids not fat by 10% of the minimum prescribed standard, complaint was filed by the complainant.

The trial ended with the conviction and sentence of the petitioner, as mentioned above.

Learned counsel for the petitioner has not challenged the conviction of the petitioner under Section 16(1)(a)(i) of the Act. However, he has submitted that the petitioner has been facing the agony of criminal prosecution since the year 1993. When he was heard by the trial Court on the quantum of sentence as envisaged by Section 248 Cr.P.C., he had pleaded that he was a poor person, having five

children and only bread winner of his family. He has already undergone a period of fifteen days. He is also not a previous convict. Prayer has accordingly been made for reducing substantive sentence of the petitioner to that already undergone by him.

Learned State counsel has opposed the prayer by submitting that the offence committed by the petitioner affects the society at large as the adulterated food articles pose serious danger to the health of the public. Learned State counsel has, however, produced the custody certificate, as per which he has undergone an actual sentence of fifteen days. He is also not shown to be involved in any other criminal case.

In Parshadi Vs. State of Haryana, 2004(2) RCR (Criminal) 360, the sentence of a similarly situated accused, who stood convicted under Section 7 read with Section 16(1)(a)(i) of the Act was reduced to that already undergone by him as he had been facing the trial for a period of fourteen years. However, his fine was enhanced. While doing so, the Court had relied upon a number of judgments, viz. Mahavir Vs. State through Govt. Food Inspector, 2000(4) RCR (Criminal) 208, Behari Lal Vs. State of (U.T.), Chandigarh, 2000(1) RCR (Criminal) 222, Des Raj Vs. The State of Haryana, 1996(1) RCR 689, Vijay Kumar Vs. The State of Haryana, 1996 (2) RCR (Criminal) 554, Mohinder Singh Vs. State (Chandigarh Administration), 1997(2) RCR (Criminal) 168 and Satpal Vs. State of Haryana, 1997(4) RCR (Criminal) 15.

In Narinder Kumar Vs. State of Haryana, 2008(2) All India Criminal Law Reporter 288, this Court, once again, reduced the

sentence of a similarly situated convict to that already undergone by him as the occurrence pertained to the year 1984.

The petitioner has suffered protracted trial since the year 1993. He is not shown to be a previous convict nor any criminal case pending against him. He has a large family to support. Out of the sentence of six months imposed upon him he has already undergone a period of fifteen days. Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, so as to serve the remaining sentence of imprisonment. Ends of justice would be suitably met, if the substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine of Rs.1,000/- imposed can be enhanced to Rs.10,000/-.

Resultantly, the conviction of the petitioner for the offence under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 is maintained. His substantive sentence of imprisonment is reduced to the one already undergone by him. However, the amount of fine of Rs.1,000/- is enhanced to Rs.10,000/-, which shall be deposited by him with the trial Court within three months from today, failing which he shall be required to undergo simple imprisonment for 1½ months.

The revision is, accordingly, disposed of.

(T.P.S. MANN)
JUDGE

May 09, 2016

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