

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 561 of 2006

Date of Decision : July 26, 2016

Virender Kumar

....Petitioner

VERSUS

State through the Government Food Inspector, Karnal

...Respondent

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

Present : Mr. Ravi Gakhar, Advocate for
Mr. Jagdish Manchanda, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Additional Advocate General, Haryana.

T.P.S. MANN, J.

The petitioner was tried for committing the offence under Section 7 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') and punishable under Section 16 of the Act. Vide judgment and order dated 13/15.6.2015, learned Chief Judicial Magistrate, Karnal convicted him for the offence under Section 7 of the Act and sentenced him to undergo rigorous imprisonment for a term of six months under Section 16 of the Act and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month. The amount of fine imposed was deposited by the petitioner there and then.

Aggrieved of his conviction and sentence, the petitioner

preferred an appeal. Vide order dated 7.3.2016, learned Additional Sessions Judge, Karnal, while holding that the appeal was devoid of merits, dismissed the same. Still not satisfied, the petitioner preferred the present revision, in which he is currently on bail.

The prosecution case, in nutshell, is that on 26.9.1996 at 8.30 a.m., Shri D.K. Sharma, Government Food Inspector intercepted the petitioner, who was having in his possession 30 kgs. of cow milk for public sale contained in a drum. After giving notice in writing on Form IV, the Food Inspector purchased 750 mls. of cow milk after mixing the contents of the drum properly and making them uniform for analysis. The sample was converted into three parts. One parcel was subsequently sent to the Public Analyst, Haryana and vide report Ex.PE, it was opined that the milk fat was 4%, whereas milk solids not fat 7.7%. As such, milk solids not fat was deficient by 9% of the prescribed standards. On the option of the petitioner, second sample was sent to the Central Food Laboratory, Pune and as per report Ex.PG, total milk solids were 11.6%, whereas milk fat was 3%. As such, the milk solids not fat were deficient by 8.6% and, accordingly, the sample did not conform to the standards of cow milk, as prescribed under the rules.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner. However, he has submitted that the petitioner is facing the agony of criminal prosecution for the last about twenty years. He is not a previous convict and sole bread winner of his family. He has already undergone a part of the sentence of imprisonment imposed upon him, besides depositing the fine amount. He is presently on

bail pursuant to the order passed by this Court on 10.3.2006. Prayer has, accordingly, been made for reducing the substantive sentence of imprisonment of the petitioner to the one already undergone by him.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner was found indulging in adulteration, which is a social evil and deserves to be curbed with a heavy hand. He has already been dealt with leniently by imposing minimum sentence of imprisonment, i.e. six months and, therefore, no case is made out for reducing the substantive sentence any further.

Section 16 of the Act provides that the person found guilty of the offence shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine, which shall not be less than one thousand rupee. Proviso thereto further provides that in cases covered by Clauses (i) and (ii) to Section 16 (1) of the Act, for adequate and special reasons to be mentioned in the judgment, the Court may impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than five thousand rupees.

Fair, just and reasonable procedure implicit in [Article 21](#) of the Constitution of India creates a right in the accused to be tried speedily. It is now well settled that the right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. Right to speedy trial flowing from [Article 21](#) encompasses all the stages, namely, the stage of investigation, inquiry, trial, appeal, revision and retrial.

In [Chander Bhan v.State of Haryana](#), 1996 (1) Recent Criminal Reports 125, it has been held by this Court as under:-

"It is correct that although minimum sentence to be imposed upon a convict is prescribed by the statute yet keeping in view the provisions of [Article 21](#) of the Constitution of India and the interpretation thereof qua the right of an accused to a speedy trial, judicial compassion can play a role and a convict can be compensated for the mental agony which he undergoes on account of a protracted trial due to the fault of the prosecution by this Court in the exercise of its extraordinary jurisdiction."

In [Municipal Corporation of Delhi v. Tek Chand Bhatia](#), AIR 1980 Supreme Court 380, the Hon'ble Supreme Court held as under:-

"Though adulteration of an article of food is a serious anti-social offence which must be visited with exemplary punishment, it will be rather harsh to pass a sentence of imprisonment in the facts and circumstances of the instant case. Under Section 16 as in force at the material time, the Court had the discretion for special and adequate reason under proviso to sub-section (1) of Section 16 not to pass a sentence of imprisonment. In the instant case, the accused is a man aged 75 years. The offence was committed more than 11 years ago. The order of acquittal was based on the decision of the High Court. The samples were taken from sealed tins. These are mitigating circumstances. Accordingly, instead of passing a substantive sentence of imprisonment, the accused could be sentenced to period already undergone and directed to pay a fine."

In Braham Dass v. State of Himachal Pradesh, (1988) 4 SCC

130, the Hon'ble Supreme Court held as under:-

"Coming to the question of sentence, we find that the appellant had been acquitted by the trial Court and the High Court while reversing the judgment of acquittal made by the appellate Judge has not made clear reference to clauses (f). The occurrence took place about more than 8 years back. Records show that the appellant has already suffered a part of the imprisonment. We do not find any useful purpose would be served by sending the appellant to jail at this point of time for undergoing period of the sentence, though ordinarily in an anti-social offence punishable under the Prevention of Food Adulteration Act, the Court should take strict view of such matter. While dismissing the appeal, we would, however, limit the sentence of imprisonment to the period already undergone and sustain the fine along with the default sentence."

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, for undergoing his remaining sentence of imprisonment. Ends of justice would be suitably met if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine amount can be suitable enhanced.

Resultantly, the conviction of the petitioner for the offence under Section 7 read with Section 16 of the Prevention of Food Adulteration Act, 1954 is upheld. His substantive sentence of imprisonment is reduced to

the one already undergone by him. The fine of Rs.1,000/- imposed is, however, enhanced to Rs.15,000/-. The enhanced amount of fine, i.e. Rs.14,000/-, be deposited by the petitioner with the trial Court within three months from today, failing which he shall be required to undergo rigorous imprisonment for two months.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

July 26, 2016
satish

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No