

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

CRR-432-2007

Date of decision:21.10.2016

Pirithi Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.NS Shekhawat, Advocate for the petitioner

Mr.Sulinder Kumar, Assistant Advocate General, Haryana

SNEH PRASHAR, J.

By virtue of this revision petition, the petitioner has challenged the judgment dated 15.2.2007 passed by learned Sessions Judge, Karnal affirming the judgment of conviction dated 25.7.2005 and order of sentence dated 28.7.2005 passed by learned Chief Judicial Magistrate, Karnal in a complaint under Section 7 read with Section 16 (1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short 'the Act'). The petitioner was sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.

The facts that need to be noticed are that on 9.6.1996, at about 8.30 AM Prem Chand Gupta, Govt. Food Inspector, who was

accompanied by Dr.Yashpal Singh, Medical Officer, CHC Asandh inspected the premises of the petitioner situated at village Dhanauli and found him to be in possession of a drum containing about 25 kgs. cow milk for public sale. After disclosing his identity, he served a notice to the petitioner and purchased 750 Mls milk for Rs.6.50 paise. It was put in three bottles in equal quantity. Thereafter, the bottles were sealed as per rules and one sample was sent for analysis to Public Analyst, Haryana, Chandigarh and remaining two were deposited with the Local Health Authority, Karnal. On receipt of the Public Analyst report Ex.PE, according to which the milk solids not fat were 26% deficient of the minimum prescribed standard, the complaint Ex.PF was filed in the Court. When the petitioner appeared in the court, he moved an application for reanalysis of the second part of the sample. As per the report of Ex.PG of the Central Food Laboratory, Pune, the sample did not conform to the standard of cow's milk prescribed in the Act. Thereafter, amended complaint Ex.PH was filed in the Court by the Govt. Food Inspector.

The petitioner was charged under Section 7/16(1)(a)(i) of the Act, to which he pleaded not guilty and claimed trial. To substantiate its case, the prosecution examined four witnesses in all. Thereafter, statement of petitioner under Section 313 of the Code of Criminal Procedure was recorded wherein he pleaded his false implication. In defence, he examined Rameshwar Dass as DW1.

On evaluating the evidence led by the parties and the

submissions made by Govt. Food Inspector and the defence counsel, learned trial Court finding that the prosecution has successfully proved the guilt of the petitioner, convicted and sentenced him vide judgment / order dated 25/28.7.2005 as noticed above. Feeling aggrieved, the petitioner filed an appeal, which was dismissed by learned Sessions Judge, Karnal vide judgment dated 15.2.2007.

Being dissatisfied by the judgment of conviction and order of sentence, the petitioner preferred the instant criminal revision.

The submissions made by Mr.NS Shekhawat, Advocate representing the petitioner and Mr.Sulinder Kumar, Assistant Advocate General, Haryana have been heard and perused the record.

At the very outset, it is submitted by learned counsel for the petitioner that he does not want to challenge the judgment of conviction dated 25.7.2005 recorded by learned Chief Judicial Magistrate, Karnal, which was upheld by learned Sessions Judge, Karnal vide judgment dated 15.2.2007, however, he submitted that the petitioner is facing agony of criminal prosecution for the last more than 20 years. The petitioner is not a previous convict and is presently aged about 55 years. Out of the total substantive sentence of six months, he has already undergone two months and nine days of actual sentence. As such, the substantive sentence of imprisonment awarded to the petitioner be reduced to the one already undergone by him.

Learned counsel for the State opposes the above prayer of learned counsel for the petitioner and submits that adulteration of food

items meant for human consumption is a social evil and deserves to be curbed with heavy hand. There being minimum sentence provided, the petitioner is not entitled to reduction in the substantive sentence awarded to him.

Since, learned counsel for the petitioner does not challenge the judgment of conviction passed by learned trial Court and upheld by learned first appellate court, this Court is not inclined to go into the details with regard to the factual aspects of the case. However, on scrutinizing the impugned judgments as well as evidence led by the parties before the trial Court, apparently there is no scope for any interference in the concurrent findings recorded by both the courts below. As such, the conviction of the petitioner is maintained.

The Hon'ble Supreme Court in **Haripada Das vs. State of W.B. and another 1998(9) SCC 678** considering that the appellant had faced protracted litigation upto the Apex Court and had also suffered a lot of mental agony and financial hardship and had already undergone imprisonment for more than three weeks, had ordered that the ends of justice will be met if the sentence of imprisonment awarded to the appellant is reduced to the period already undergone.

In **Sektu Ram vs. State of Haryana 2008(3) RCR (Crl.) 364**, this Court held as under:-

“Keeping in view the enunciation of law as referred to above and also the fact that the offence in the present case was committed 12 years back, the petitioner has faced the agony to trial since, then; he has already

undergone imprisonment for a period of about two months; he is not a previous convict and even thereafter has not been involved in any such case; he has already learnt lesson of his life, accordingly, the prayer of the petitioner for reducing the quantum of sentence deserves acceptance.”

Following the dictum of law laid down in **Sektu Ram's case (supra)**, this Court in **Mukesh Kumar Kathuria vs. State through Government Food Inspector 2014(3) Crimes 453** finding that the petitioner had undergone imprisonment of little less than one month, had reduced the sentence of the petitioner to that which he had already undergone while enhancing the fine from Rs.1000/- to Rs.20,000/-.

The fair, just and reasonable procedure implicit in Article 21 of the Constitution of India creates a right to the accused to be tried speedily. The said right is one of the most valuable and cherished right guaranteed under the Constitution, whereas in the instant case, the petitioner is facing a protracted trial for the last 20 years. He is not a previous convict and is not reported to have been involved in any kind of criminal activity after the instant case. He is middle aged and is said to be the only earning member of the family.

Thus, following the ratio in **Haripada Das's case (supra)** and the other aforementioned judgments and keeping in view the exceptionally long period of protracted trial faced by the petitioner, in my considered opinion, it shall be expedient and in the interest of justice that instead of sending the petitioner behind the bars once again for

undergoing his remaining sentence of imprisonment, his substantive sentence of imprisonment is reduced to the one already undergone by him.

Consequently, the conviction of the petitioner for the offence punishable under Section 16(1)(a)(i) of the Act is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him while enhancing the fine from Rs.1000/- to Rs.6000/-, which shall be deposited by the petitioner within three months from today, failing which, the present revision petition shall be deemed to be dismissed and he will be liable to be arrested to serve out the remaining part of his sentence.

The revision petition stands disposed of accordingly.

21.10.2016
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking/ reasoned?

Yes/No

Whether reportable?

Yes/No