

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.2148 of 2008

Date of Decision : May 09, 2016

Sardara Ram

.....Petitioner

VERSUS

Government Food Inspector through the State of Haryana

.....Respondent

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

Present : Mr. Shivam Grover, Advocate with
Ms. Tanu Bedi, Advocate
as Legal Aid Counsel.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S. MANN, J.

The petitioner, alongwith Hari Om Sharma, was charged for committing the offence punishable under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act'). Vide judgment and order dated 17/21.8.2007, learned Chief Judicial Magistrate, Kurukshetra convicted the petitioner of the aforementioned offence and sentenced him to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for fifteen days. The amount of fine was paid by him there and then. However, Hari Om Sharma was acquitted of the charge levelled against him.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 9.8.2008, learned Additional Sessions Judge, Kurushetra found it to be without any merit and,

accordingly, dismissed the same. Hence, the present revision, in which he is currently on bail pursuant to order dated 24.10.2008.

The case of the prosecution is that on 8.9.1994, Kali Ram, Government Food Inspector, alongwith Dr. T.R. Girdhar, intercepted the petitioner at Pehowa Road, Kurukshetra. At that time, the petitioner was found having in his possession 40 kgs. of cow's milk for public sale contained in two drums. The Government Food Inspector took a sample of cow's milk by giving him notice on Form VI and purchased the same after stirring the whole contents properly and made it homogeneous. The sample was divided into three equal parts. Preservative was added to the three parts. The bottles were duly sealed, labelled and wrapped in strong thick paper. One sealed sample was sent to the Public Analyst, Haryana for analysis while the other two sealed packets were deposited with Local Health Authority, Kurukshetra. As per the report of the Public Analyst, Haryana, the sample was found to be adulterated as milk fat was 4.4% and milk solids not fat 8%, which was 6% deficient of the minimum prescribed standard.

The trial of the case 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. However, it is stated that the petitioner is a poor person having two children and old parents. He is the only bread winner of his family. He is not a previous convict. He has been facing the agony of criminal prosecution since the year 1994. Out of the

sentence of six months imposed upon him, he has already undergone a period of about 3½ months. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the punishment awarded to the petitioner is commensurate with the gravity of the offence committed. Learned State counsel has, however, produced the custody certificate, as per which the petitioner has already undergone an actual sentence of three months and seven days. He is also not shown to be involved or convicted in any other 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.

After hearing learned counsel for the parties, this Court finds that the petitioner has been facing the agony of criminal prosecution for the last about twenty two years. He has a family consisting of two children and old parents to support. He has already undergone more than half of the sentence of imprisonment imposed upon him. 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 remaining sentence of imprisonment is set aside. At the same time, the fine of Rs.1,000/- imposed upon him by the trial Court can be enhanced to Rs.10,000/-.

Resultantly, the conviction of the petitioner under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 is upheld. His remaining sentence of imprisonment is set aside. The amount of fine is, however, enhanced from Rs.1,000/- 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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