

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

Criminal Revision 8 of 2008

Date of Decision : December 2, 2016

Dinesh Kumar

....Petitioner

VERSUS

State of Haryana

...Respondent

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

Present : Mr. Yogesh Saini, Advocate for
Mr. Manoj Bajaj, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S. MANN, J.

The petitioner was tried for committing the offence punishable under Section 16(1)(a) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') for contravening the provisions of Section 7 of the Act. Vide judgment and order dated 28.2.2005/2.3.2005, learned Chief Judicial Magistrate, Gurgaon, convicted him for 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 undergo simple imprisonment for one month. The fine imposed was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner

preferred an appeal but remained unsuccessful as it came to be dismissed by the learned Additional Sessions Judge, Gurgaon, vide judgment dated 21.12.2007. Still not satisfied, the petitioner preferred the present revision, which was admitted on 17.1.2008 and he was ordered to be released on bail.

According to the prosecution, the petitioner was found carrying four drums, containing 40 kilograms of cow milk for public sale. Sample of the same was taken by the Government Food Inspector, Gurgaon. As per the report of the Public Analyst, milk fat in the sample was not deficient whereas the milk solids not fat were found 14% deficient.

From the testimonies of PW1 K.K.Sharma, Government Food Inspector and PW2 Dr. D.R.Thakur, it stands clearly established that it was the petitioner, who was carrying adulterated milk for public sale. The Public Analyst, Haryana had found 14% deficiency of solid not fat in the sample. It also stands proved that before the sample of the milk was taken, the contents of the drums were stirred and made homogeneous. Therefore, no case is made out for any interference in the conviction of the petitioner.

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 protracted trial due to the fault of the prosecution by this Court in the exercise of its extra-ordinary 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."

The petitioner is facing the agony of criminal prosecution for the last about twenty two years. When he was heard by the learned trial Court on the quantum of sentence, he had pleaded that he was to look-after two children and old grandmother. Further, he was not a previous convict. As per the custody certificate produced by the learned State counsel, the petitioner has undergone total sentence of twenty nine days. He is also not shown to be either involved or convicted in any other case.

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 of Rs.1,000/- imposed upon him by the trial Court can be enhanced.

Resultantly, the conviction of the petitioner for the offence under 16(1)(a) of the Prevention of Food Adulteration Act, 1954 for contravening the provisions of Section 7 of the Act is upheld. His

substantive sentence of imprisonment is reduced to the one already undergone by him. However, the fine of Rs.1,000/- is enhanced to Rs.11,000/-. The enhanced amount of fine, i.e. Rs.10,000/- be deposited by the petitioner with the trial Court within a period of three months from today, failing which, he shall be required to undergo simple imprisonment for two months.

The revision is, accordingly, disposed of.

December 2, 2016
amit rana

(T.P.S. MANN)
JUDGE

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