

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.2721 of 2009

Date of Decision : May 17, 2016

Naresh Kumar

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. R.S. Mamli, Advocate with
Mr. Sanjay Nagpal, 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 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') punishable under Section 16 of the Act. Vide judgment and order dated 23/26.10.2006, learned Chief Judicial Magistrate, Karnal convicted him under Section 16(1)(c) 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 a period of one month. The fine amount was paid there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 6.10.2009, learned Additional Sessions Judge, Karnal, after holding that there was no reason to interfere in the judgment and order passed by the trial Court, dismissed the appeal. Hence, the present revision in which he is

currently on bail pursuant to order dated 5.11.2009.

The case of the prosecution, in nutshell, is that on 26.5.1999 at about 6.00 p.m., the Government Food Inspector inspected the premises of the petitioner at village Barsat. He was found in possession of 10 kgs. of Bundi, 10 kgs. of Barfi and 20 kgs. of Bundi Ladoo for sale. The Food Inspector showed his intention to purchase the food items for the purpose of analysis and, accordingly, served notice in writing on Form VI upon him. He not only refused to accept the notice but also fled from the spot in the presence of Mohinder Kumar, an independent witness. While running away, he declared that he would not give any sample and resultantly, the sample could not be taken. Thus, he violated the provisions of Section 7 of the Act, which made him liable for punishment under Section 16 of the Act.

Learned counsel for the petitioner has not challenged the conviction of the petitioner on merits. He has, however, confined his arguments on the question of sentence. It is submitted that the petitioner has been facing the trial since the year 1999 and has been facing its agony. Besides, he is a first offender. Therefore, his substantive sentence of imprisonment be reduced to the period already undergone by him. In this regard, he has relied upon the decision in Sarup Singh Vs. State of Haryana, 1994(1) FAC 190; Badrilal Vs. B.P. Shah and another, 1995(1) FAC 75; Ganesh Prasad Vs. The State of M.P., 1995(2) FAC 22; Ram Lakhan Vs. State of U.P., 1997(1) FAC 170 and Om Parkash Vs. The State of Haryana, 1997(2) FAC 76.

Learned State counsel has vehemently opposed the prayer

by submitting that the petitioner after having been convicted under Section 16(1)(c) of the Act has been sentenced to undergo imprisonment for six months, which is the minimum sentence of imprisonment prescribed under the law. Learned State counsel has, however, produced the custody certificate, as per which the petitioner has already undergone an actual sentence of one month and one day. He is also not shown to be involved or convicted in any other case.

After hearing learned counsel for the parties and considering the facts and circumstances of the case, especially the fact that the petitioner has suffered both financial and mental agony on account of prolonged litigation, this Court is of the considered view that ends of justice would be sufficiently met if his substantive sentence is reduced to the period already undergone by him. At the same time, the amount of fine can be enhanced.

Resultantly, the conviction of the petitioner under Section 16(1)(c) of the Prevention of Food Adulteration Act, 1954 is maintained. His substantive sentence of imprisonment is reduced to the one already undergone by him. The amount of fine is, however, enhanced from Rs.1,000/- to Rs.15,000/- and in default of the same, he shall undergo rigorous imprisonment for three months.

The revision is, accordingly, disposed of.

May 17, 2016

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**(T.P.S. MANN)
JUDGE**