IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 229

Criminal Revision No.2026 of 2010 (O & M)
Date of Decision : *October 21, 2016*

Satish Kumar ..... PETITIONER

VERSUS

State of Haryana ..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: - Mr. Vikram Punia, Advocate
for the petitioner.

Ms. Neelam Kashyap, DAG, Punjab
for the respondent-State.

. . .

Jaspal Singh, J

1. The instant revision petition has been preferred by the petitioner against judgment dated July 24, 2010 passed by ld. Additional Sessions Judge (Adhoc), FTC, Sonepat, whereby judgment of conviction dated April 12, 2006 and order of sentence dated April 13, 2006 passed by ld. trial court, in complaint under Section 16(1) (a) (i) of Prevention of Food Adulteration Act *(for short, "Act" only),* has been upheld and appeal filed by the petitioner has been dismissed. The petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months with fine of ₹500/- and in default of payment of fine, to further undergo simple imprisonment for a period of fifteen days.

2. While assailing the impugned judgments/orders, learned counsel for the petitioner contends that the report of Public Analyst does not show that the 'Atta' was unfit for the consumption of human

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life. Moreover, no independent witness has joined at the time of inspection of premises, despite the fact that the alleged place of occurrence was situated in a thickly populated area.

3. Learned counsel for the petitioner further contends that the case of the prosecution cannot be said to have been proved beyond shadows of doubt. The impugned judgment of conviction and order of sentence are not sustainable in the eyes of law and as such, the same are liable to be set aside by way of acceptance of instant revision petition. Consequently, the accused deserves acquittal.

4. Per contra, learned State counsel has supported the impugned judgment of conviction and order of sentence. She has submitted that there is no infirmity or illegality in the impugned judgment of conviction and order of sentence. The well reasoned judgment/order passed by the trial court and affirmed by the lower appellate court do not call for any interference by this Court and the petition being devoid of any merits is liable to be dismissed.

5. After bestowing due consideration to the rival submissions made by learned counsel for the parties, appraisal of evidence and scrutinizing the impugned judgment/order, this Court is of the considered view that the submissions made by learned counsel for the petitioner are absolutely meritless in view of cogent and convincing evidence adduced by the prosecution during trial.

6. As regards the first contention of learned counsel for the petitioner that report of Public Analyst does not show that the Atta was unfit for the consumption of human life, as per report of Public Analyst

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Ex.P6, the sample was containing 7 living and 5 dead weevils (insects). Though, the report does not mention that sample was found unfit for human consumptions but the same was found in contravention with Section 3(1) (zz)(ix) of the Act, which reads as under:-

> *3(1) In this Act, unless the context otherwise requires-*
>
> *xx xxxx xx*
>
> *(zz) **"Unsafe Food"** means an article of food whose nature, substance or quality is so affected as to render it injurious to health:-*
>
> *xx xxxx xx*
>
> *(ix) by the article having been infected or infested with worms, weevils, or insects: or"*

7. As far as the contention of learned counsel for the petitioner that no independent witness was joined at the time of inspection of premises, despite the fact that the alleged place of occurrence was situated in a thickly populated area is concerned. it is an admitted fact that Dhaba was situated on the main road having heavy traffic and 4/5 persons were sitting there at the time of raid but nobody had joined as a witness. However, one Vinod Kumar had joined as a witness. So, it cannot be said that no independent witness has joined. Otherwise also, for such a simple reason, the statements of the other witnesses examined by the prosecution cannot be brushed aside. These official witnesses are as good as others, who have no animosity with the petitioner.

8. However, as far as quantum of sentence imposed upon the petitioner is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and

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upheld by the lower appellate court. Apart from the fact that petitioner is facing the agony of protracted trial for the last more than 14 years after registration of the instant case and is first offender; he is only bread winner in the family; there is no other case of similar nature, either pending or disposed of, against the petitioner who had also suffered incarceration of more than two months, as is evident from custody certificate dated September 30, 2010. Thus, this Court is of the considered view that a chance be given to the petitioner to reform & improve himself; to become good citizen; and to lead a peaceful & harmonious life.

9. Taking into consideration the aforesaid aspects of the case, though, conviction of the petitioner is upheld but the sentence imposed upon him by the court(s) below is reduced to the period already undergone by him, with no change in fine clause.

10. With the above modification in sentence, revision petition stands dismissed.

October 21, 2016 **(Jaspal Singh)**
sonika/m. sharma/avin **Judge**

Whether Speaking/ Reasoned: Yes/ No

Whether Reportable: Yes/ No

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