

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

**Criminal Revision 1630 of 2011
Date of Decision : June 1, 2016**

Ram Kanwar		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Parveen Kush, Advocate for
Mr. Kartar Singh Malik-I, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S.MANN, J. (Oral)

The petitioner was tried for committing offence punishable under Section 7 read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954, (hereinafter referred as the Act), for selling adulterated mustard oil. Vide judgment and order dated 3/10.7.2009, learned Chief Judicial Magistrate, Rohtak, convicted him for the offence under Section 16(i)(a) 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 simple imprisonment for a period of fifteen days. The fine imposed was duly paid by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. However, vide judgment dated 19.7.2011, learned Additional Sessions Judge (Fast Tract Court) Rohtak while finding no illegality, perversity or incorrectness in the order passed by the trial Court, dismissed the same. Still not satisfied, the petitioner preferred the present revision, in which, he is currently on bail pursuant to order dated 12.10.2011.

According to the prosecution, the sample of mustard oil, which oil he had kept for public sale in a peepa, did not conform to the prescribed standard laid down under item No. A.17.06 of the Prevention of Food Adulteration Rules 1955 for the following reasons:-

- “(i) Sample is adulterated with Argemone oil, where as it should be free from the same. Hence, the same is unfit for human consumption.
- (ii) Bellier temperature exceeds the maximum specified limit of 27.5 degree Celsius.
- (iii) The sample also contravenes Food (Health) Authority-cum-Director General Health Services notification No.8/24-2PH/98/7910 dated 28.8.98 where in the sale of mustard oil in loose form is prohibited.”

Learned counsel for the petitioner does not challenge the conviction of the petitioner. However, he has submitted that the petitioner is facing the agony of criminal prosecution for the last more than seventeen years. He is not a previous convict and sole bread winner of his family. Out of the sentence of six months imposed upon him, he has already undergone a period of more than three months. Accordingly, it has been submitted that his substantive sentence of imprisonment be reduced to the one already undergone by him.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner had been indulging in adulteration, which is a social evil and deserves to be curbed with heavy hand. The petitioner has already been dealt with leniently by imposing minimum sentence of imprisonment, i.e. six months and no case is made out for reducing his substantive sentence further. Learned State counsel has, however, produced the custody certificate, as per which, the petitioner has undergone an actual sentence of two months and twenty eight days besides earning remissions of four days. In all, he has served a period of three months and two days out of the sentence of six months imposed upon him.

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 rupees. 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 a 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.”

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 amount can be suitably enhanced.

Resultantly, the conviction of the petitioner for the offences under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.1,000/- imposed is, however, enhanced 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 two months.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

June 1, 2016
amit rana

(T.P.S. MANN)
JUDGE