

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

CRR-3304 of 2012 (O&M)

Date of decision: 24.08.2016

Ayub Khan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sarfraj Hussain, Advocate for the petitioner(s).

Mr. Neeraj Poswal, AAG, Haryana.

Jitendra Chauhan, J.

By filing the present criminal revision, the petitioner has assailed the judgment dated 05.10.2012, vide which, learned Addl. Sessions Judge, Nuh, upheld the judgment dated 15.05.2010, passed by learned Judicial Magistrate 1st Class, Ferozepur Jhirka, whereby, the petitioner was convicted under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (for short 'the Act') and sentenced to undergo RI for a period of six months and ordered to pay fine of Rs. 1000/- and in default of payment of fine, to further undergo simple imprisonment for three weeks.

The prosecution case against the petitioner is that on

30.03.2005, the petitioner was intercepted by Govt., Food Inspector at Gohana-Shikrawa Road while petitioner was carrying 60 litres of milk in two drums for sale. After serving notice, 1500 ml. milk was purchased for Rs.15/- from the petitioner against receipt and it was divided into three equal parts and was put in three dry and clean bottles. The said bottles were properly stoppered, labeled and sealed. One of samples was sent to Public Analyst Haryana and as per his report, the milk contained 7.74% of milk solids not fat against the minimum specified limit of 8.5%.

The accused was charged sheeted under Section 7/16 of the Act, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Prithvi Singh, complainant; PW-2 Jaivir and PW-3 Dr. Mandeep Rathi.

The statement of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication. However, they did not lead any evidence in his defence.

After hearing the Govt. Food Inspector, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/petitioner, as stated hereinbefore.

The appeal filed by the petitioner was also dismissed, vide impugned dated 05.10.2012. Feeling aggrieved against the

judgments of both the Courts below, the instant revision was filed by the accused/petitioner which was admitted on 30.01.2013. The sentence of accused/petitioner was suspended on the same day.

The learned counsel for the petitioner does not press the revision petition on merits and has submitted that the petitioner is the sole bread winner of his family. He has further submitted that the petitioner have suffered a protracted trial since the year 2010. The petitioner has never misused the concession of bail during the trial as well as during the pendency of the present revision petition. He has already undergone 04 months and 04 days out of substantive sentence of six months. Thus, the learned counsel prays for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposed the prayer of petitioner/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and has carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the prosecution witnesses. There is no flaw in the unassailed judgment of conviction. There is no merit in this present revision petition which is dismissed on merits.

The petitioner has suffered agony of protracted trial. It is one of the mitigating circumstance to treat him leniently. The

petitioner has already undergone 04 months and 04 days of sentence, out of the substantive sentence of six months and he never misused the concession of bail. In view of the above, the prayer made on behalf of the petitioner is accepted. The sentence awarded to the petitioner is ordered to be reduced to the period already undergone.

Ordered accordingly.

However, the fine is further enhanced to ₹25,000/- to be paid within three months after the receipt of certified copy of the order. It is made clear that if the enhanced amount of fine is not paid within the stipulated period, the present revision petition shall be deemed to be dismissed without any notice.

24.08.2016

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No