

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.3821 of 2012

Date of Decision : May 10, 2016

Kartar Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. A.S. Gulati, Advocate for
Mr. A.S. Sullar, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S. MANN, J.

The petitioner was tried for committing violation of the provisions of Section 7 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') punishable under Section 16(1)(a) (i) of the Act. Vide judgment and order dated 9.12.2010, learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhri convicted him for the aforementioned offence and sentenced him to undergo simple 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 one month. The fine amount was paid there and then.

Aggrieved of his conviction and sentence, the petitioner

preferred an appeal but the same was dismissed by learned Sessions Judge, Yamuna Nagar at Jagadhri vide judgment dated 16.11.2012. Still not satisfied, he filed the present revision, in which he is currently on bail pursuant to order dated 22.1.2013.

The case of the prosecution, in nutshell, is that on 17.12.2003 at about 1.45 p.m., Shri Sham Lal Mahiwal, the then Government Food Inspector, Jagadhri, inspected the premises of the petitioner and found him in possession of two kgs. of Paneer, which he had kept in an iron tray for public sale. Its sample was taken and on analysis by the Public Analyst, Haryana, it was found to contain 25.32% of milk fat against the minimum specific limit of 50.0%.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner. However, he has submitted that the petitioner has been facing the agony of criminal prosecution since the year 2004. He is not a previous convict. He is about seventy years of age and a heart patient. He has to look-after his ailing wife as his sons are living separately. Out of the sentence of six months imposed upon him, he has already undergone a period of about 2½ months. Prayer has, accordingly, been made for setting aside the remaining sentence of imprisonment imposed upon him.

Learned State counsel has opposed the prayer by submitting that the petitioner had been playing havoc with the health of public at large by selling adulterated Paneer. The anti-social evil

deserves to be curbed with a heavy hand. Learned State counsel has, however, produced the custody certificate, as per which he has already undergone an actual sentence of two months and eight days.

In Parshadi Vs. State of Haryana, 2004(2) RCR (Criminal) 360, the sentence of a similarly situated accused, who stood convicted under Section 7 read with Section 16(1)(a)(i) of the Act was reduced to that already undergone by him as he had been facing the trial for a period of fourteen years. However, his fine was enhanced. While doing so, the Court relied upon a number of judgments, viz. Mahavir Vs. State through Govt. Food Inspector, 2000(4) RCR (Criminal) 208, Behari Lal Vs. State of (U.T.), Chandigarh, 2000(1) RCR (Criminal) 222, Des Raj Vs. The State of Haryana, 1996(1) RCR 689, Vijay Kumar Vs. The State of Haryana, 1996 (2) RCR (Criminal) 554, Mohinder Singh Vs. State (Chandigarh Administration), 1997(2) RCR (Criminal) 168 and Satpal Vs. State of Haryana, 1997(4) RCR (Criminal) 15.

In Narinder Kumar Vs. State of Haryana, 2008(2) All India Criminal Law Reporter 288, this Court, once again, reduced the sentence of a similarly situated convict to that already undergone by him as the occurrence pertained to the year 1984.

Having heard learned counsel for the parties and taking into consideration the aforementioned 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 the remaining sentence of

imprisonment imposed upon him. Ends of justice would be suitably met if the substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine of Rs.1,000/- can be enhanced to Rs.10,000/-.

Resultantly, the conviction of the petitioner, as recorded by the Courts below, is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.1,000/- imposed by the trial Court 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 three months.

The revision is, accordingly, disposed of.

May 10, 2016
satish

(T.P.S. MANN)
JUDGE