

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.863 of 2016

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1. Ganour Sah @ Gonar Sah Son of Late Sri Bihari Sah, resident of Village- Milki, P.S.- Warisnagar, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Sharma, Adv

For the Respondent/s : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 06-03-2017

Though the case has been listed under the heading 'For Orders on Office Notes' with the defect that the petitioner has not surrendered before the court below and has not submitted surrender certificate before filing of revision application as required under the Patna High Court Rules, in view of the nature of order, I am going to pass, the said defect stands ignored.

The petitioner has been convinced of the offence punishable under Section 16(1)(c) of the Prevention of Food Adulteration Act, 1954, and has been sentenced to simple imprisonment for six months by order dated 29.07.1997 passed by the learned Sub Divisional Judicial Magistrate, Samastipur. The appeal preferred by him against the said judgment and order giving rise to Criminal Appeal No. 97 of 1997, has been rejected by order dated



16.04.2016 passed by learned 2nd Additional District & Sessions Judge, Samastipur, affirming the judgment and order of sentence passed by the learned trial court.

The present criminal revision application has been filed against the aforesaid judgments and orders, under Section 397 and 401 of the Cr.P.C.

Learned counsel appearing on behalf of the petitioner has submitted that the FIR was registered nearly 23 years ago. The petitioner is now 80 years of age. There is no proof of his previous conviction. During the pendency of the case, the petitioner was not implicated in any other matter. He has, accordingly, submitted that in the facts and circumstances of the case, the petitioner may be given benefit under the provisions of Probation of Offenders Act, 1958, without interfering with the finding of conviction. He has further submitted that the petitioner has fixed place of abode.

The complaint case leading to launching of prosecution against the petitioner is based on inspection conducted by the Food Inspector of Kirana Shop of the petitioner, where it was found that the petitioner had kept mustard oil exposed in open container for sale. It is alleged that when the officer attempted to serve notice upon the petitioner, the petitioner refused to receive the notice. It is also alleged that he did not allow the officer to take sample of the



mustard oil.

Considering the fact that the petitioner had to undergo investigation and trial during all these years and he is said to be nearly 80 years of age, I am convinced that instead of imposing sentence, the petitioner could be given benefit under the provision of Probation of Offenders Act, 1958. Accordingly, the order of sentence of imprisonment is modified and the petitioner is directed to be released on furnishing bond of Rs. 10,000/- on the provision of good conduct for a period of one year.

This application stands disposed of.

(Chakradhari Sharan Singh, J)

Ranjan/-

AFR/NAFR	NAFR
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