

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

CRA-S-No.966-SBA OF 2006
DATE OF DECISION : 21st NOVEMBER, 2017

State of Punjab

.... Appellant

Versus

M/s. Kewal Krishan and sons Umarpura and others

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Dhruv Dayal, Sr. D.A.G. Punjab,
 for the appellant.

None for the respondents.

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A. B. CHAUDHARI, J. (Oral)

Being aggrieved by the judgment dated 18.10.2005 passed in Sessions Case No.42 of 1995 in complaint under Section 19(1)(a) of Fertilizer (Control) Order, 1985 read with terms and conditions of dealer Registration Certificate and Section 7 and 12-AA of Essential Commodities Act, 1955 (10 of 1955), the present appeal was filed by the State through its Chief Agricultural Officer, Gurdaspur, against acquittal of the respondent.

Heard learned counsel for the rival parties.

In support of the appeal against acquittal, learned State counsel vehemently argued that the trial Court has committed error in recording the order of acquittal of the respondent-accused. According to him the trial Court erred in not placing reliance on the evidence of the prosecution witnesses when the sample was taken in accordance with the standard procedure. There was no reason for the trial Court to record acquittal of the respondents-accused. According to him the reasons given

by the trial Court are faulty and perverse and therefore, the order of acquittal deserves to be converted into the one of conviction.

None appears for the respondents-accused.

Upon hearing, learned counsel for the State in the present appeal against acquittal, I find that the sample was collected by the concerned Inspector on 28.07.1993. The trial Court found that entire procedure that was required to be followed for collection of sample scrupulously was not followed nor there was any corroborative evidence for corroborating the testimony of PW-4 Uttamjit Singh. I quote the following extract from para 12 of the judgment, which reads thus:

“12. xxx...xxx... However, I must point out some points of procedure which have not been complied with. There is no mention in the complaint as well as in the statement of Uttamjit Singh PW-4 that the sample was not exposed to rain/sun. Nothing is also mentioned that the material being samples the following struments and the bag of sample were free from any adventitious contamination. Uttamjit Singh PW-4 has simply stated that he selected three bags for taking sample and he took the sample with the help of sampling probe. The sample was divided into three parts and each part was put in a polythene bag. The statement of Uttamnit Singh PW-4 is silent that each bag selected for sampling was thoroughly mixed as possible by suitable means. xxx... xxx...”

Relying on some decisions of this Court the learned trial Court also held that PW-4 himself admitted in the examination-in-chief that the bags of fertilizers were machine stitched. In the wake of the said admission the trial Court recorded the following finding in para 15:

“15. I do not agree with the argument advanced by ld. Addl. P.P. on the ground that there is no evidence on the file to show that the dealer had kept stitching machine with him. There is also no reference of any stitching machine in the complaint as well as in the evidence of prosecution. So, it can safely be presumed that the bags were stitched by the manufacturing company and not by the dealer. Hon’ble Mr. Justice M. M. Kumar, Judge of our own High Court has observed in ‘State of Punjab v Jagdish Chand and others 2004 (2) RCR Page 479’ that it has come on record that the sample was taken from the stitched bags and the dealer namely accused No.1 cannot be in any case be held guilty if the sample has been found to be sub-standard.”

The finding recorded by the trial Court that no independent witness was joined and therefore, the prosecution case was liable to be rejected, does not appeal to me as law is settled i.e. the testimony of a single witness can be believed and there is no need for corroboration by public witnesses who otherwise are not interested in joining the investigation and supporting the prosecution.

Nevertheless, the reasons quoted by the trial Court above are good enough to extend the benefit of doubt. Accordingly, I make the following order:

ORDER

- (i) CRA-S-No.966-SBA OF 2006 is dismissed.

21st NOVEMBER, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>