

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-A-934-MA-2013

Date of Decision: 25.07.2017

State of Punjab

..Applicant-appellant

versus

Dharam Singh Gill and another

..Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. B.S.Baath, DAG, Punjab for the applicant-appellant.

Mr. Rajan Bansal, Advocate,
for Mr. Ashish Gupta, Advocate,
for the respondents

RAMENDRA JAIN, J. (ORAL)

The State of Punjab, in the instant application, under section 378 (3) of the Code of Criminal Procedure, has prayed for grant of permission to file appeal against the judgment of acquittal dated 29.8.2012 passed by the trial court.

Briefly stated, a complaint under section 7/16 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as “the 1954 Act”) and Rule 50 of the Prevention of Food Adulteration Rules, 1955 (hereinafter referred to as “the Rules 1955”) was filed against the respondents on the allegations that on inspection of Gobind Milk Dairy, situated at Circular Road, Faridkot, around 2.45 PM on 15.6.2009, by Food Inspector Satnam Singh along with his team, respondent no.1-Dharam Singh was found in possession around 100 litres of mixed milk contained in steel tank meant for sale to the public for human consumption. On inquiry by the Food Inspector, respondent no.1-Dharam Singh introduced him as a care taker of the aforesaid Dairy and respondent no.2 Karminder

Singh as its proprietor. Necessary formalities for taking the milk sample and its sending etc., in accordance with law were completed on the spot by the Food Inspector Satnam Singh by joining an independent witness, namely, Gurmail Singh. The sample was sent for analysis to the Local Health Authorities. According to the report of the Public Analyst, milk sample taken from the custody of the respondents contained only 7.8% milk solids against the minimum prescribed standard of 8.5% and therefore, the milk kept by the respondents was adulterated.

After due trial, respondents were acquitted by the impugned judgment dated 29.8.2012 by the trial court.

Learned counsel for the State contended that the respondents have been acquitted wrongly and illegally by the trial court. The finding of the trial court that the complainant could not prove that the milk kept by the respondents was for sale and human consumption is perverse, inasmuch as, had the milk kept by the respondents was not for human consumption, in that eventuality, the respondents would not have sold the same to the Food Inspector for sample purposes after charging Rs.30/- from him. He next contended that there is no necessity for the Public Analyst to give a specific observation in his report that the sample of milk, which was forwarded to him for analysis, was not fit for human consumption. In support of his case, he has placed reliance upon the decision rendered in State of Punjab versus Paramjit Singh and others, 2008(2) R.C.R.(Criminal) 342 and Benny Thomas versus Food Inspector, Kochi and another, 2008(4) R.C.R. (Criminal) 863.

On the other hand, learned counsel for the respondents has pleaded the legality and validity of the impugned judgment.

I have given anxious consideration to the submissions made by both the side.

According to the complaint, respondent no.1 Dharam Singh was the care taker of the Gobind Milk Dairy. The said word “care taker” is not defined in the 1954 Act. Even, complainant Satnam Singh, Food Inspector, appearing as PW1, in his cross-examination and PW2 Dr. Jagraj Singh, accompanying him, have feigned their ignorance about the definition of “care taker” in the 1954 Act. Rather, complainant Satnam Singh, Food Inspector PW1 has categorically admitted that the word “care taker” was not defined in the 1954 Act.

Further, PW1 Satnam Singh, Food Inspector and PW3 Tirlok Singh, in their cross-examinations have categorically admitted that respondent no.1 Dharam Singh was a social worker. PW3 Tirlok Singh has gone to the extent of admitting the fact that respondent no.1 Dharam Singh was not the owner of the Gobind Milk Dairy, from where the samples were taken, rather the samples were taken from the Milk Collection Centre, where no milk was sold. PW4 Paramjit Kaur, Food Clerk, was a formal witness as she was not accompanying PW1 Satnam Singh, Food Inspector, to the spot.

In the absence of any specific evidence on the record that respondent no.1 Dharam Singh was the owner or incharge of Gobind Milk Dairy from where sample was taken or was, in any capacity, responsible for selling the milk and therefore, his acquittal is upheld.

As far as acquittal of respondent no.2 Karminder Singh is concerned, nothing was brought on record during the trial against him. Even the complainant and the other prosecution witnesses did not utter a single

word against him and as such, his acquittal is also upheld. That apart, it is no where mentioned in the report of the Analysts that milk was adulterated and the fat was found less from the prescribed limit which might, by in itself, cannot be termed as adulterated.

As far as both the above referred authorities are concerned, there is no dispute as to the law laid down in Paramjit Singh's case (supra) but with due respect, it is worth mentioning that when the complainant could not prove the guilt of the respondents to the hilt beyond any shadow of reasonable doubt, therefore, the finding, if any, recorded by the trial court regarding non mentioning by the Public Analyst, in his report, that the milk sample taken from the Gobind Milk Dairy was unfit for human consumption relates to insignificant aspect of the case. Therefore, this authority is not applicable to the facts of the present case. The facts of the case of Benny Thomas's (supra) are distinguishable from the facts of the instant case, because, in that case, four bottles of Sarbath (synthetic syrups) were kept in shop for sale, whereas in the instant case, as per own deposition of the complainant and other prosecution witnesses, the sample of the milk was taken from the Collection Milk Centre, from where no milk used to be sold and therefore, this authority also does not render any assistance in favour of the applicant-State

In view of the above discussion, I do not find any illegality and perversity in the judgment of acquittal dated 29.8.2012 passed by the trial court and as such, the same is affirmed. The application is, accordingly, dismissed.

25.7.2017

VK

1. Whether reasoned/speaking
2. Whether Reportable

(RAMENDRA JAIN)

JUDGE

- Yes/No
Yes/No