

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

Crl. Revision 809 of 2008

Date of Decision : February 15, 2017

Hari Om Sharma

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Vivek Sharma, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S. MANN, J. (Oral)

The petitioner was tried for committing the offence punishable under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as '**the Act**'). Vide judgment and order dated 17/20.8.2007, learned Chief Judicial Magistrate, Kurukshetra convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs. 2,000/- and in default of payment of fine, to further undergo simple imprisonment for two months. The fine imposed was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge, Kurukshetra vide judgment dated 23.4.2008. Still not

satisfied, the petitioner preferred the present revision which was admitted on 4.6.2008 and simultaneously he was ordered to be released on bail.

According to the prosecution, the premises of the petitioner were inspected by Shri A.N.Sharma, Government Food Inspector alongwith Dr. T.R.Girdhar on 24.11.1994 in the presence of Waryam Chand, Welfare Inspector. At that time he was found in possession of 750 kgs of milk contained in five drums and the said milk was meant for public sale. The sample of the milk was drawn and when it was analyzed by the Public Analyst, Haryana, it was found adulterated as the milk solids not fat was 54% deficient of the minimum prescribed standards whereas the extracted fat of the sample gave butyro refractometer reading at 40°C as 55.0 against the maximum prescribed standard of 43.0. The high butyro refractometer reading indicated that the sample was adulterated with foreign fat and sale of such type of milk was prohibited under Rule 44(1) of the Prevention of Food Adulteration Rules, 1955.

Learned counsel for the petitioner has not challenged the impugned judgments passed by the learned Courts below to the extent of holding him guilty for the offence under Section 16 (1)(a)(i) of the Act. However, it is submitted that the petitioner is a poor person and having three children to look after. He has been facing the agony of criminal prosecution for the last more than

twenty two years. He is the sole bread winner of his family. Prayer has, accordingly, been made for taking a lenient view in the matter of sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner was found in possession of 750 kgs of milk contained in five drums which he had kept for public sale but was found adulterated with foreign fat.

After hearing learned counsel for the parties and keeping in view the totality of the circumstances and the fact that the petitioner was found in possession of synthetic milk which was kept by him for public sale, this Court is of the view that the sentence of imprisonment for two years imposed upon the petitioner is on the higher side. Ends of justice will be suitably met, if the same is reduced to one year.

Resultantly, the conviction of the petitioner under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 is upheld but his sentence of imprisonment is reduced from two years to rigorous imprisonment for one year. The sentence of fine alongwith its default clause is maintained.

The revision is, accordingly, disposed of.

February 15, 2017
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(T.P.S. MANN)
JUDGE

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