

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1211 of 2018

Arising out of Case No.-22 Year-2003 Thana- Government Official Comp. District- West
Champaran

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Gulab Prasad, Son of Late Bachau Shah, Resident of Village- Sonarpatti Gate
Meena Bazar, Police Station- Bettiah Town, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra
For the Respondent/s : Mr. Sri Satyavarat Verma

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT

Date : 18-12-2018

This revision application is directed against the judgment dated 18.08.2018 passed by Mr. Abhimanyu Lal Srivastava, Sessions Judge, West Champaran at Bettiah in Cr. Appeal No. 37 of 2018 by which he has confirmed the conviction and order of sentence dated 24.04.2018 passed by Mr. Manoranjan Kumar Jha, Sub Divisional Judicial Magistrate, Bettiah in G.R.No. 220C of 2003 (Trial No. 455 of 2018) finding the petitioner guilty under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the 'PFA Act') and sentenced to him to undergo rigorous imprisonment for one year with a fine of Rs. 1000/- and in default of payment of fine to further undergo simple imprisonment for one month.



2. Prosecution Case in short is that complainant (PW-2), namely, Md. Iqbal, along with his Peon, inspected the shop of the petitioner and introduced himself as Food Inspector and he found Haldi powder suspected to be adulterated and purchased 450 Grams of Haldi powder on payment for chemical examination as sample. It is said that the sample was equally divided into three parts. Each part of sample was labeled and wrapped with thick papers and packed and sealed as per provisions of the PFA Act and on next succeeding day, one part of the sample has been sent to Public Analyst, Government of Bihar, Agamkuan, Patna. It further appears that the report submitted by the local health authority/Public Analyst declaring that sample had presence of lead chromate which renders it injurious to health.

3. The prosecution report has been submitted to the learned trial court and two witnesses were examined on behalf of the prosecution i.e., PW-1 Ravindra Nath Choubey (Peon) and PW-2 Md. Iqbal (Food Inspector). On behalf of the defence, no witness was examined and he claimed to be innocence and of false implication. The trial court on conclusion of trial has convicted the petitioner under Sections 16(1)(a)(i) of the PFA Act, 1954 and sentenced him accordingly. Against the judgment



and order of the trial court, the petitioner has preferred Criminal Appeal No. 37 of 2018 which was dismissed by the learned District and Sessions Judge, Bettiah on 18.08.2018.

4. Being aggrieved by the aforesaid order, the present revision application has been preferred. The ground of filing the application, in short, is that no independent witness has been examined in this case on behalf of the prosecution even no seizure-list was prepared showing the seizure of the article and furthermore, the evidence of PW-2 does not show as to when it was sent for chemical examination and all these facts vitiate the trial. Hence conviction of the petitioner is not sustainable in the eye of law.

5. Heard learned A.P.P. also, who has supported the judgment of conviction of the trial court as well as the appellate court.

6. On perusal of record, it appears that PW-1 has supported the prosecution case stating that he had taken Haldi powder as sample and got the same signed by the shopkeeper. However, in his cross-examination, he admitted that there is no signature of any independent witness on the seizure-list and also stated that he does not know as to when the sample was sent to the laboratory for examination and he could not show the report



of the Public Analyst.

7. PW-2 is Food Inspector and he has also stated that on suspicion, he had taken 450 Grams of Haldi powder as sample in three packets and sealed the same and a copy whereof was served the petitioner. Thereafter, he has sent the seized sample to the Food & Drug Laboratory, Agamkuan, Patna and in the report, the court found adulteration. He has proved the sanction order of the local health authority and his signature.

8. From the evidence on record, it appears that sample was taken by PW-2 from the shop of the petitioner which he had wrapped, packed and sealed properly and signature was taken by him and thereafter sent the sample to the Food & Drug Laboratory for analyst. The laboratory report, which is Ext. 2, shows that sample of Haldi powder does not conform to the prescribed standard of purity laid down under the P.F.A.Rules, 1955. The report reads as under:

“The sample of Haldi Powder does not conform the prescribed standard of purity laid down under Rule A.05.20.01 of Appendix-B read with Rule-5 of the PFA Rules, 1955 and hence adulterated by virtue of presence of lead chromate which renders its injurious to health.”

9. The seizure-list has also been brought on record, which is Ext. 1/1. Considering that evidence and exhibits support the prosecution case, I find no illegality in the impugned



judgment of the trial court as well as the appellate court.

10. So far question of sentence is concerned, submission of learned counsel for the petitioner is that petitioner is an old person of 65 years of age, occurrence is of 2002 and as such lenient view may be taken and he may be provided minimum sentence as prescribed under 16(1)(a)(i) of the PFA Act.

11. In view of the aforesaid facts and circumstances and considering the age of the petitioner, the period of sentence is reduced to a period of six months and fine of Rs. 1000/- shall remain intact.

12. It is needless to say that period already undergone in custody by the petitioner during investigation or trial or during the appellate or revisional stage shall be set off as per the provisions contained under Section 428 of the Code of Criminal Procedure.

13. Accordingly, this application is dismissed with the modification in sentence.

(Vinod Kumar Sinha, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

