

22.3.2023
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AB
Ct. No.236

CRR 1811 of 2004
+
CRAN 1 of 2023
+
CRAN 2 of 2023

In the matter of : Ramji Shaw

Mr. Chittapriya Ghosh
Mr. Goutam Acharya
... for the petitioner.

Mr. Anindya Sundar Chatterjee
Mr. Goutam Dinda
.... For the Kolkata Municipal Corporation

Ms. Sreyashee Biswas for the State

In Re: CRAN 1 o 2023

Mr. Chittapriya Ghosh, learned counsel is representing the petitioner.

The explanation given for inaction on the part of the petitioner resulting into dismissal of the revisional application for default having been found satisfactory the application is restored to its original file.

Accordingly the application being **CRAN 1 of 2023** stands allowed.

Since the matter is pending for nearly 19 years, I am inclined to dispose of the revisional application. Heard Mr. Ghosh, learned counsel for the petitioner, Ms. Biswas, learned counsel representing the State and Mr. Chatterjee, learned counsel representing the Kolkata Municipal Corporation.

It is submitted that, learned third Court, Municipal Magistrate recorded order of conviction against the petitioner having found him guilty to the charge under Section 16(1)(a)(i) read with Section 7 of the prevention of Food Adulteration Act, 1954 for stirring and selling adulterated mustard oil and sentenced him to suffer imprisonment for six months and to pay fine of Rs.2,000/- with a default clause but without giving any opportunity to the petitioner to cross-examine the Chemical Examiner based on whose report the learned Trial Court passed the sentence. The petitioner made unsuccessful attempt to get the order of conviction reversed by preferring the appeal being Criminal Appeal No. 32 of 2000.

Upon perusal of record I find that, opportunity was given to the petitioner in course of trial by the Local Health Authority to challenge the report of the Chemical Examiner following the provision of Section 13 of the Prevention of Food Adulteration Act, 1954. However the petitioner did not pray before the Court to send the sample to Central Food Laboratory. Thus there is every reason to hold that the petitioner virtually accepted the report of the Chemical Examiner. Under such circumstances I do not find any reason to interfere with the judgment impugned. The proceeding was initiated way back in 1990, order of conviction was recorded on 29th March, 2000, and the appeal was disposed of on 29th January, 2004. Keeping in mind the agony of the petitioner who is now an octogenarian, I am inclined to interfere with the sentencing part. In my view, ends of justice would be met if the petitioner is sentenced to pay a fine of Rs.20,000/- out of which

Rs.10,000/- should go to the Secretary, Calcutta High Court Legal Services Committee and remaining Rs.10,000/- is to be paid to the Kolkata Municipal Corporation within two weeks from date.

With this observation this criminal revisional application is disposed of together with application, if any.

With the disposal of the criminal revision the order passed by learned Trial Court issuing warrant of arrest on 4th January, 2023 stands quashed.

Let a copy of the order be sent to learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)