

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 588 of 2010**

The State of M.P.

---- Petitioner**Versus**

Shivan Das, S/o - Chelaram Bhojwant, Aged about – 52 years,
R/o – Sweet Home, Durga Talkies Premisses, Rajanandgaon,
M.P. (Now C.G.)

---- Respondent

For State/petitioner : Shri V.B. Singh, Panel Lawyer for the
State/petitioner.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****27/03/2019**

1. Heard on the application filed under Section 378(3) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
2. This petition is preferred against judgment dated 20.07.1996 passed by Chief Judicial Magistrate, Rajnandgaon in Criminal Case No. 163/1996 filed under Section 16 of the Food Adulteration Act, 1954 wherein the said Court acquitted the respondent for the said charge.
3. The respondent was charge-sheeted on the ground that he sold Papri of 600 gms. made of pulse powder (besan) which was found adulterated as per report of the Public Analyst. The report of Public Analyst is not absolute but the same is conditional. Again as per report Ex.P-11 Central Food Laboratory, if said Papri is made of rapeseed oil, then it is below standard. The prosecution is under obligation to prove that article in question is made of rapeseed oil but that is not substantiated by any evidence adduced by the

prosecution. Unless the article in question is made of rapeseed oil the standard which is prescribed is not applicable in the present case. Looking to the conditional report and lack of evidence the trial Court opined that it cannot be held that the article in question was below standard. Finding of the trial Court is based on evidence adduced and report submitted thereon and after reassessing the entire evidence this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.

4. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge