

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 772 of 2008**

1. Deepak Kumar S/o Uttam Chand Jain, Aged about 42 years, Partner Of D.M. Traders Shuddh Ghi Nirmata Company, Nagar Nigam Market Shop No. 13 Gujrati Bazar Sagar, M.P. R/o Lajpatpura, Sagar M.P.
2. Manoj Kumar S/o Kastoor Chand Jain, aged about 43 years, partner of D.M. Traders Shuddh Ghi Nirmata company, Nagar nigam Market Shop No. 13 Gujrati Bazar Sagar, M.P., R/o Maharshi Dayanand Ward, Sagar, M.P.
3. Govind Ram S/o mangtram Dhanwani aged about 43 years, Proprietor Bharat Agency, R/o Grunanak market Vaishali Nagar Bhilai, P.S. Supela Tahsil and District Durg.

---- Applicants

**Versus**

- State Of Chhattisgarh, Through : District Magistrate Kavardha, District-Kabirdham, Chhattisgarh.

---- Respondent

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| For Appellants       | : | Mr. Ajay Mishra, From Legal Aid. |
| For Respondent/State | : | Ms. Akshra Amit, PL.             |

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**Hon'ble Smt. Justice Rajani Dubey****Order on Board****06/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 27.11.2008 passed by the learned Sessions Judge, Kabirdham (Kavardha), in Cr. Appeal No. 07/2008 and 08/2008 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Kabirdham (Kavardha), vide its judgment dated 21.01.2008 in Criminal Case No. 342/2006 for the offence punishable under Section 16(1)(A)(1) and (2) of Prevention of Food Adulteration Act and sentenced them to undergo R.I. for six-six months with fine of Rs. 1000/- Rs. 1000/-, plus default stipulation.

2. Brief facts of the case are that on 13.10.1998 one food Inspector A.K. Koushik had visited the shop of accused Nizamuddin and obtained a sample of 3 packets of 200 ml. "Shuddh Ghi" from him for the purpose of taking sample as per the provisions of the act. The sample on being sent for

analysis was found to be adulterated. Thereupon a complaint was filed by the Food Inspector before Judicial Magistrate First Class, Kabirdham (Kavardha) for the offence punishable under Sections 7(1)(5), 14, 14(A) and 16(1)(A)(1) and (2) of Prevention of Food Adulteration Act, against the present applicants.

3. So as to hold the accused/applicants guilty, the complainant has examined as many as 06 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the circumstances appearing against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 21.01.2008, learned Judicial Magistrate has convicted and sentenced the accused/applicants for the offence punishable under Section 16(1)(A)(1) and (2) of Prevention of Food Adulteration Act and sentenced them to undergo R.I. for six-six months with fine of Rs. 1000/- Rs. 1000/-, plus default stipulation. This order was appealed by the applicants and in the appeal, learned Appellate Court has dismissed the appeal. Hence, the present revision.

5. Learned counsel for the applicants submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 1998, and thereby more than 21 years have rolled by since then. The applicants have already remained in jail for about 6 days, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

6. Learned counsel for the State has no objection to this proposition.

7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of Jaspal Singh Gond (PW-1), Suresh Kumar Koushik (PW-2), Laxmi Narayan (PW-3), Dr. R.D. Nagariya (PW-4), Dr. Kanhaiya Lal (PW-5) and Dr. A.R. Nigam (PW-6), established the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any

illegality in the findings recorded by the trial Court below as regards conviction of the applicants under Section 16(1)(A)(1) and (2) of Prevention of Food Adulteration Act being so it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 1998, and further that the applicants had already remained in jail for about 6 days, no useful purpose would be served in again sending them to jail at this stage and the ends of justice would be served if they are sentenced to the period already undergone by them with a direction to pay additional fine of Rs. 5,000/- each.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicants, they are sentenced to the period already undergone by them. However, they are directed to pay an additional fine of Rs. 5,000/- each, within eight months from today, failing which they shall have to undergo RI for two months. The fine amount of (Rs. 5,000/-) shall be deposited by the applicants before the trial Court. The applicants are on bail. Their bail bonds shall stand discharged.

**Sd/-  
(Rajani Dubey)  
JUDGE**