

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

Criminal Revision No. 1269 of 2008 (O&M)

Reserved on : 15.5.2019

Date of decision : 31.5.2019

Paramjit Singh

.... Petitioner

versus

State of Haryana

... Respondent

Coram: Hon'ble Mr. Justice Rajiv Sharma

Present Mr. G. S. Sawhney, Advocate, for the petitioner.

Mr. Apoorv Garg, Deputy Advocate General, Haryana.

Rajiv Sharma, J.

1. This criminal revision is instituted against the judgment dated 17.7.2008, rendered by learned Additional Sessions Judge, Panchkula, in Criminal Appeal No. 01 of 12.12.2005/ 4.6.2008, whereby he upheld the judgment dated 23.11.2005, rendered by the trial Court in Criminal Case No. 120/Food dated 28.10.1995. The petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months under Section 16 (1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short, 'the Act'), and to pay fine of ₹ 1,000/- and in default of payment of fine, to undergo further simple imprisonment for a period of two months.

2. The case of the prosecution in a nutshell is that on 30.8.1995 at about 7.40 A.M., complainant C. L. Sikri, Government Food Inspector along with Dr. Vimal Shori, Medical Officer, C.H.C., Kalka, intercepted the accused at Nalagarh Road, Pinjore. He was found in possession of about 20

liters of cow milk for public sale contained in iron drum. The complainant expressed his intention to have the sample of cow milk. He purchased 750 milliliter. He paid the price of milk. The sample was divided into three parts and bottled in three dry, clean and empty bottles. Two drops of 40% formalin per 25 milliliter of milk was added as preservative in each bottle. The bottles were stoppered tightly and sealed on the neck with thick paper. The ends of the paper were pasted with gum. A paper slip bearing the code and signature of the Local Health Authority, Kalka was pasted on each bottle from top to bottom. Thumb impressions of the accused were obtained in such a manner that both the paper slip and the wrapper on each sealed bottle carry a part of his thumb impressions. One bottle sample was sent to the Public Analyst, Haryana, Karnal along with memorandum in Form VII in a sealed cover through railway parcel. Other two parts of the sample along with two copies of memo in Form VII bearing the seal impressions were handed over to Local Health Authority on 30.8.1995. Sample was analysed by the Public Analyst vide his report dated 9.10.1995. The same did not conform to the standards laid down for the cow milk in the table. The milk fat fell below minimum specified limit of 4% and the milk solids not fat fell below minimum specified limit of 8.5%. The petitioner was ordered to be summoned for the commission of offence under Section 7 punishable under Section 16(1)(a)(i) of the Act. The petitioner appeared in the Court and contested the case.

3. The prosecution examined a number of witnesses in support of the case. The statement of the accused was also recorded under Section 313 Cr.P.C. According to him, he was falsely implicated. He was convicted and

sentenced by the learned trial Court vide judgment dated 23.11.2005, as noticed above. The learned Additional Sessions Judge vide judgment dated 17.7.2008 dismissed the appeal and upheld the conviction and sentence awarded by the learned trial Court. Hence, the present criminal revision.

4. Learned counsel appearing on behalf of the petitioner vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubt and supported the judgment and order of the learned Court below.

5. I have heard learned counsel for the parties and gone through the judgments and record very carefully.

6. Learned counsel for the State has placed reliance upon the testimony of PW1 C. L. Sikri. He was the complainant. He took the sample of the cow milk. He has supported the averments made in the complaint. According to him, he was posted as GFI in Tehsil Kalka. He accompanied by PW2 Dr. Vimal Shori, went to Nalagarh-Pinjore Road. He intercepted the accused. He was in possession of 20 liters of cow milk contained in two drums, for human consumption. PW Gurnam Singh was also joined in the process. A notice, Ex.PA, was served upon the petitioner. All the codal formalities were completed at the spot. The sample was made homogenous. The amount was paid to the petitioner. Formalin was added as preservative in each bottle. The sample was sent to Public Analyst, Karnal. The report is Ex.PD. The same was not found to be conforming to the standards laid down for the cow milk in the table.

7. PW2 Dr. Vimal Shori, the then Medical Officer, C. H. C., Kalka, has corroborated the statement of PW1 C. L. Sikri.

8. PW3 Dr. R. S. Chauhan, the then SMO, C. H. C., Kalka had proved the report of the sample, which was sent to Public Analyst, Haryana, Karnal, in accordance with law. It was received in the office on 28.10.1995 and copy thereof was sent to the petitioner on 2.11.1995.

9. The milk was made homogenous by PW1 C. L. Sikri, Food Inspector. The accused was served with a notice. The sample did not conform to the standards prescribed. Though the fact of the matter is that second sample sent for analysis to the Central Food Laboratory, Mysore, was received back with the report dated 30.5.2003 that the sample had been rendered unfit for analysis. However, result of the sample as given in the report, Ex.PD, by the Public Analyst, Haryana, Karnal, was sent to the accused by the Local Health Authority, C.H.C., Kalka, vide letter dated 2.11.1995. The postal receipt has been proved by PW3 Dr. R. S. Chauhan. The petitioner had waited for more than six years till 12.4.2002 for sending the second sample. The same curdled. He was required to do so within 10 days from the receipt of notice from the Local Health Authority, Kalka.

10. The prosecution though has not examined Gurnam Singh but the statement of the official witnesses inspire confidence. The petitioner has not doubted the authenticity of the thumb impressions. The prosecution has proved the case against the petitioner beyond reasonable doubt. The judgments of both the courts are well reasoned and are affirmed.

11. Learned counsel for the petitioner has vehemently argued that taking into consideration the peculiar facts and circumstances of the case, more particularly the age of the petitioner, a lenient view may be taken.
12. The sample was taken on 30.8.1995 and we are in the year 2019. The petitioner has gone through the agony and trauma of facing criminal case for the last more than 24 years. Accordingly, while upholding the conviction of the petitioner, his sentence of imprisonment is reduced to the period already undergone.
13. The petition stands disposed of accordingly.

31.5.2019
vs

(Rajiv Sharma)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No