

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2078-2009(O&M)
Date of decision: 28.11.2019

Parveen Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajesh Lamba, Advocate for the petitioner
Mr. Anmol Malik, AAG, Haryana

ANIL KSHETARPAL, J.

Through this revision petition correctness of the judgment passed by the Chief Judicial Magistrate, Faridabad dated 12.9.2008 confirmed in appeal by the learned Court of Sessions vide judgment dated 4.8.2009 has been assailed.

At the outset it must be noticed that learned counsel for the petitioner did not choose to argue the revision petition on merits. He further submitted that the sentence awarded be reduced to the period already undergone. He relies upon following judgments:-

- i) State Govt. of NCT of Delhi vs. Satish Kumar- 2018 (4) JCC 2111
- ii) Subhash Chander vs. State of Haryana and another - 2016 (3) RCR (CrI) 166.

Before this Court proceeds to examine the argument of the learned counsel for the petitioner, it must be noticed that petitioner was found in possession of 40 kg split pulse (Dal) Arhar for sale to the public.

Out of that 900 grams pulse was purchased on the payment of Rs.18/- and

divided into three parts by converting them into samples. On being sent for analysis it was found sample was coloured with added tetrazine (colour index No.19140) synthetic food colour. The added synthetic food colour is not permitted. The prosecution successfully brought home the guilt of the accused resulting in his conviction.

Judicial Magistrate keeping in view the provisions of Section 16 of the Prevention of Food Adulteration Act, 1954 awarded the sentence of six months, which is the minimum and to pay a fine of Rs. 1000/-.

Now let us examine the judgments cited. In the case of NCT of Delhi (supra) which is a similar case, Arhar pulse was found to be adulterated with synthetic colour - tetrazine. The learned Magistrate ordered to undergo an imprisonment for a period of 18 months. However, the Court of Sessions in appeal reduced the sentence to the period till rising of the Court and directed to pay a fine of Rs. 35,000/-. The Delhi High Court was hearing appeal filed by State Government. The Delhi High Court after considering the case and the new Act i.e Food Safety and Standards Act, 2006 granted the benefit of reduced sentence to the accused. The next judgment relied upon by the learned counsel for the petitioner is in the case of Subhash Chander (supra). It may be noticed that this Court, in the facts of the case, where allegations were that in a pulse moong higher moisture contents were found, particularly, when the sample was taken during rainy season, apart from the fact that the sample was found coloured with added synthetic food colour- tetrazine, reduced the sentence to the period already undergone.

This Court is of the considered opinion that both the judgments

relied upon by learned counsel for the petitioner cannot be said to be laying

down a ratio decidendi. Thus decisions referred to above are in the facts of the case and these judgments cannot be said to be laying down any declaration of law. The Hon'ble Supreme Court in a recent judgment arising from the case under the Prevention of Food Adulteration Act, 1955 has held that the Courts have no justification to award sentence below the minimum prescribed.

Still further the menace of food adulteration of food articles, which are consumed by one and all, the Courts have to take serious view of the matter. An adulterated food item is hazardous to the health of all living beings. Hence, need is to deal with such offenders with heavy hands. Sufferings of human beings have increased manifold on account of various health problems due to rampant adulteration of the foods everyone eats. Therefore, the laws enacted must be strictly adhered to and the Courts should not go overboard and impose a sentence lower than the minimum prescribed. Reference in this regard can be made to judgment passed by the Hon'ble Supreme Court in the case of **Raj Kumar vs. State of U.P (2019) 9 SCC 427.**

Keeping in view the aforesaid facts, this Court is not inclined to accept the submissions of the learned counsel for the petitioner. Therefore, the revision petition is dismissed.

28.11. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No