

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

CRR No.3251-2009 (O&M)

Date of Order: 17.09.2019

Vishan Dass

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Chaudhri, Sr. Advocate with
Mr. Sartaj Singh Gill, Advocate,
for the petitioner.
Mr. Manish Bansal, DAG, Haryana

ANIL KSHETARPAL, J.

By filing present revision petition, convict has assailed the validity and correctness of judgments passed by the learned Chief Judicial Magistrate while deciding a complaint under Food Adulteration Act, 1954, affirmed in appeal by the learned Additional Sessions Judge.

Learned senior counsel appearing for the petitioner has raised only one contention i.e. as per the report of Public Analysis in the sample of mustard oil, test for Argemone oil was found positive which should be negative, However, he submits that as per clause 'A 17.06 of Appendix B of the prevention of Food Alteration Rules, 1955, the requirement of test for Argemone oil to be negative was introduced by amendment in the Rules of 1955, vide notification dated 11.12.2001, whereas sample was collected on the basis of search and seizure carried out on 29.12.1999. He, hence, submits that the test for Argemone oil could not be applied.

It may be noted that prosecution had filed a complaint claiming

that on 29.12.1999 Shri D.K.Sharma, Government Food Inspector, Karnal had inspected the premisses and collected sample of mustard oil which was sent to the Public Analyst and as per the report, the sample did not confirm to the prescribed limits laid down for mustard oil as it was found adulterated with Argemone oil. Accused on appearance requested for sending a second sample for analysis to Central Food Laboratory, Pune and report from the Central Food Laboratory was also same. On the basis thereof, learned Chief Judicial Magistrate convicted the petitioner for commission of an offence under Section 7 of the Prevention of Food Adulteration Act, 1954 punishable under Section 16(1)(a)(i) of the Act and sentenced him to undergo rigorous imprisonment for a period of 6 months with fine of Rs.10,000/-, in default of payment of fine, further undergo rigorous imprisonment for a period of three months. Appeal as noted above has been dismissed.

Learned counsel has drawn attention of the Court to the notification dated 11.12.2001 which provides that in various items including item no.17.06 of Appendix 'B' of the Prevention of Food Adulteration Rules, 1955, following requirement was inserted:-

“Test for Argemone oil shall be negative”

Learned State counsel was given opportunity but he could not explain as to how petitioner was prosecuted once the test for Argemone oil has to be negative was introduced by way of amendment in the Rules with effect from 11.12.2001. Still further learned counsel has drawn attention of the court to the order passed by the Delhi High Court in the case of **Delhi Administration through Designated Officer (Delhi Admn.) vs. A.K.Bhatia and others** (Crl. L.P.No.636 of 2013, decided on 26.02.2014).

In view of the aforesaid discussion, the revision petition is allowed. Judgment of conviction is set aside.

17th September, 2019
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(ANIL KSHETARPAL)
JUDGE

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