

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-990-2009
Reserved on : 28.05.2009
Date of decision : 31.05.2019

Vinod

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr.Jarnail Singh Saneta, Advocate
for the petitioner.

Mr.Gagandeep Singh Wasu, Addl.A.G. Haryana.

RAJIV SHARMA, J.

This revision petition is instituted against the judgment dated 08.04.2009 rendered by Additional Sessions Judge, Panipat, in Criminal Appeal No.9 of 2008 upholding the judgment dated 22.01.2008 and order dated 25.01.2008 rendered by the learned trial Court in Criminal Case No.579/02 of 1999. The petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo simple imprisonment for a period of one month for offence under Section 7 punishable under Section 16(1)(a)(i) of the Prevention of Food and Adulteration Act, 1954.

2. The case of the prosecution, in a nutshell, is that a complaint was filed by the Government Food Inspector against the petitioner. The

petitioner was intercepted in the area of Jattal Road, Panipat on 15.05.1999 at 8.30 A.M. He was found in possession of 15 kgs of cow's milk for human consumption. Notice was served upon the petitioner. A sample of 750 mls. was purchased from the petitioner. The purchased milk was divided into three equal parts in clean and empty bottles. Formalin was added as preservative. Sample was sent for analysis. It was found to be adulterated. In these circumstances, the complaint was filed against the petitioner. He was ordered to be summoned vide order dated 24.08.1999.

3. The prosecution examined three witnesses in support of his case. Statement of accused was recorded under Section 313 Cr.P.C. He denied the case of the prosecution. He was convicted and sentenced by the learned Chief Judicial Magistrate, Panipat, as noticed hereinabove.

4. The petitioner filed an appeal against the judgment and order of learned Chief Judicial Magistrate, Panipat. It was dismissed by the learned Additional Sessions Judge, Panipat, vide judgment dated 08.04.2009.

5. Learned counsel appearing on behalf of the petitioner has vehemently argued that the prosecution has failed to prove the case against the petitioner.

6. Learned counsel appearing on behalf of the State has supported the prosecution case.

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

8. PW-1 K.K. Sharma deposed that on 15.05.1999 at 3.30 P.M. he was posted at Government Food Inspector, Panipat. He along with Dr.V.K. Malhotra found the accused carrying 15 kgs. cow's milk for sale. He

purchased milk from the petitioner by serving notice Ex.PA. Milk was properly stirred clockwise or anti clockwise. Payment was made to the petitioner. He prepared spot memo Ex.PC. Samples were separated from the purchased milk. Label Ex.PC/1 was affixed on the bottles. These were sealed properly. Sample was sent to the Public Analyst, Haryana, Chandigarh.

9. PW-2 Dr.V.K.Malhotra has corroborated the statement of PW-1 K.K.Sharma. According to him, they found the petitioner selling cow milk. Sample was found to be adulterated.

10. PW-3 Muni Ram deposed that after the receipt the report of Public Analyst, he sent the same to the petitioner vide registered letter dated 01.09.1999.

11. The petitioner was found selling cow's milk. Sample was taken. It was sent for analysis. The report is Ex.PE. According to the report, sample did not conform to the prescribed standard. The third sample was also sent for analysis. The report is Ex.PG. This sample also did not conform the specification laid down for cow milk. It has come in the statement of PW-1 K.K. Sharma that milk was stirred clockwise or anti clockwise. All the codal formalities were completed on the spot. The statements made by the official witnesses inspire confidence. There is no occasion to falsely implicate the petitioner. No cogent evidence has been led that the petitioner was below 18 years of age. The plea of the petitioner being juvenile was not even raised before the trial Court.

12. Accordingly there is no merit in the arguments raised by the counsel for the petitioner so far his conviction is concerned. The judgments

of conviction of both the courts below are thus affirmed.

13. The sample was taken on 15.05.1999. The petitioner has suffered agony and trauma for the last almost 20 years. So, while his conviction is upheld, the sentence of imprisonment is reduced to the period already undergone.

14. The revision petition is disposed of accordingly.

(RAJIV SHARMA)
JUDGE

May 31, 2019.
Davinder Kumar

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