

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

CRR No.2048 of 2010 (O&M)

Decided on: 02.04.2019

Satbir

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Surender Saini, Advocate
for the appellant.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting-aside the judgment of conviction dated 03.11.2006 as well as the order of sentence dated 04.11.2006 vide which the petitioner was convicted for offence punishable under Section 16 of the Prevention of Food Adulteration Act, 1954 and was sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo simple imprisonment for a period of one month as well as the judgment dated 22.07.2010 passed by the Additional Sessions Judge, Sonapat, vide which the appeal preferred by the petitioner was dismissed.

Brief facts of the case are that on 20.11.1977, K.K. Bhutani, Government Food Inspector along with Dr. A.K. Rathee and Suresh Kumar visited the shop of the accused at Fountain Chowk, Gohana and found him in possession of about 02 Kgs of Khoya contained in an iron Thal for public sale. A notice on the prescribed

Form Ex.PA was served upon the accused demanding sample of Khoya. Accordingly, 600 gms Khoya was purchased from the accused against the payment of Rs.33/-, which was divided into three equal parts and bottled in three dry clean empty bottles. Two drops of 40% formalin per 25 gms. were added as preservative in each bottle. All the three bottles were sealed and converted into parcels at the spot as per the rules. One sealed parcel was sent to the Public Analyst Haryana, Chandigarh for analysis. As per the report of the Public Analyst Ex.PF, the same was found to contain 18.1% of Milk fat contents against the minimum specified limit of Food Adulteration Rules, 1955. The said report was conveyed to the accused and thereafter, a complaint Ex.PE was filed by the Government Food Inspector.

In pre-charge evidence, K.K Bhutani, Government Food Inspector appeared as PW1 and thereafter, charge under Section 16(1) (a) (i) of the Act was framed against the accused on 25.10.2002, to which he pleaded not guilty and claimed trial.

In after-charge evidence, the complainant examined Vijay Kumar Chopra, Clerk, Local Health Authority, Sonapat as PW1 and K.K. Bhutani, Government Food Inspector as PW2 and thereafter, the evidence of the complainant was closed by Court order on 07.04.2006.

After conclusion of the evidence of the prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The petitioner/accused denied the allegation of the prosecution and pleaded that he has been falsely implicated in the case. However, no defence

evidence was produced by the petitioner/accused.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, convicted and sentenced the petitioner/accused under Section 16 of the Prevention of Food Adulteration Act, 1954.

Feeling dissatisfied with the judgment of conviction dated 03.11.2006 and order of sentence dated 04.11.2006, the petitioner has preferred an appeal before the Additional Sessions Judge, Sonapat, and the same was upheld vide order dated 22.07.2010.

Thereafter, the petitioner has preferred an appeal before this Court, which was admitted on 22.09.2010 and the sentence of the petitioner was also suspended by this Court vide order of even date i.e. 22.09.2010.

Counsel for the petitioner has submitted that the petitioner has undergone 02 months and 06 days of total sentence out of 06 months rigorous imprisonment awarded by the trial Court. In support of his contention, counsel for the petitioner has relied upon the judgment ***“Sekhtu Ram vs State of Haryana”*, 2008(3) RCR (Criminal) 364**, wherein this court has reduced the sentence of 06 months to the sentence of 02 months already undergone by him, considering the fact that the petitioner had face the agony of long trial.

Counsel for the petitioner has further argued that complaint pertains to the year 1997 and the sentence of the petitioner was suspended by this Court during the pendency of the present revision petition and he has never misused the concession of suspension of sentence and is not involved in any other case. It is also submitted that

the petitioner is a poor person and has his own family to support and he has faced the agony of protracted trial for a period of about 22 years, therefore, by taking a lenient view, the sentence awarded to the petitioner be reduced to the period already undergone by him.

Counsel for the State has not disputed the fact that the petitioner has undergone 02 months and 06 days of total sentence out of 06 months rigorous imprisonment awarded by the trial Court.

After hearing the counsel for the parties, I uphold the judgment of conviction passed by the trial Court, however, considering the fact that the petitioner has faced the agony of protracted trial for a period of about 22 years; the petitioner has undergone 02 months and 06 days of total sentence and while his sentence was suspended in the year 2010 for a period of about more than 09 years, he is not involved in any other case which shows that he has improved his character and has joined the mainstream of the society and also in view of the fact that he is a poor person and has his own family to support and in view of *Sekhtu Ram's case (supra)*, the present revision petition is ***partly allowed*** and the sentence awarded to the petitioner is reduced to the period already undergone by him i.e. 02 months and 06 days.

Disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

02.04.2019
yakub

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