

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

CRR-1508 of 2011

Reserved on : 08.05.2019

Date of decision : 28.05.2019

Dharam Pal

.... Petitioner

Versus

Union Territory, Chandigarh (Food Inspector)

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Raman Mahajan, Advocate,
for the petitioner.

None for the U.T. Chandigarh.

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RAJIV SHARMA, J.

1. This petition is instituted against judgment dated 08.07.2011, rendered by learned Additional Sessions Judge, Chandigarh in Criminal Appeal No. 176 of 2007 dated 15.12.2007, whereby the appeal filed by the petitioner has been dismissed and judgment of conviction dated 14.11.2007 and order of sentence dated 15.11.2007, passed by learned Chief Judicial Magistrate, Chandigarh, in PFA Case No. 227 dated 20.07.2004 were upheld.

2. The petitioner was charged with and tried for commission of offence punishable under Sections 7 (i) and 7 (ii) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') read with Rule 37 of the PFA Rules, 1955, punishable under Section 16 (1) (a) (i) of the

Act. He was convicted and sentenced by the trial court to undergo rigorous imprisonment for six months and to pay the fine of ₹ 1,000/-, and in default of payment of fine to further undergo simple imprisonment for ten days, under Section 7 (i) of the Act, punishable under Section 16 (1) (a) (i) of the Act. His conviction and sentence was upheld by the learned appellate court.

3. The case of the prosecution, in a nutshell, is that on 18.05.2004 at about 10.30 AM, Shri Bharat Kanojia, Food Inspector, inspected the shop of the petitioner, situated near Khera, Village Kajheri, U.T. Chandigarh. He found him in possession of about 8 packets of Divya Dhara Rice Bran Cooking Oil kept in a wooden rack for public sale. The Food Inspector served notice in writing in Form VI upon the accused. He purchased three packets of said oil for analysis against cash payment of ₹ 150/-. Purchased packets were put in three dry and clean plastic jars separately. These jars were labelled, stoppered, secured, fastened and then wrapped in strong and thick paper. The ends of the wrapper were neatly folded and pasted with gum. A paper slip bearing serial number, code number and signatures of the Local Health Authority, Chandigarh, was wrapped around each sample container from top to bottom and pasted with gum. The signatures of the accused were obtained. Thereafter, one sealed part of the sample was sent to the Public Analyst for analysis along with copy of Memorandum on Form VII in a sealed packet. The sample was taken in the presence of Balbir Singh son of Jagir Singh, resident of House No. 532, Village Kajheri, U.T. Chandigarh. The remaining two sealed samples were handed over to the Local Health Authority for safe custody. The report of Public Analyst was received through Local Health Authority, U.T. Chandigarh, according to

which the sample was found to be adulterated as the acid value of the contents of the sample was 1.5% against the maximum prescribed standard of 0.5%. Second sample was sent to the Director, Central Food Laboratory, Mysore for analysis and examination. According to the report of the Director, Central Food Laboratory, Mysore, the sample did not conform to the standards laid down for Rice Bran Oil under the Act, as the acid value was found to be 1.6% which exceeded the maximum limit of 0.5% and the test for rancidity was also positive. The sample also did not conform to Rule 37 of the PFA Rules, 1955. Thereafter, complaint was filed in the court.

4. The prosecution examined a number of witnesses in support of its case. The accused was also examined under Section 313 Cr.P.C. He denied the case of the prosecution. According to him, he was falsely implicated. He was convicted and sentenced by the trial court, as noticed here-in-above. The appeal filed by him against his conviction and sentence was dismissed by the learned appellate court. Hence, this revision petition.

5. Learned counsel appearing on behalf of the petitioner has vehemently argued that the prosecution has failed to prove its case against his client and both the courts below have misread the oral as well as documentary evidence.

6. We have heard learned counsel for the parties and gone through the judgments of the courts below and record very carefully.

7. PW.1 Bharat Kanojia, Food Inspector, supported the contents of the complaint. According to him, on 18.05.2004 at about 10.30 AM, he inspected the premises of the accused. He found the accused in possession of about 8 packets of Divya Dhara Rice Bran Cooking Oil for public sale.

He disclosed his identity. He served notice in Form VI, Ex.PA, upon the accused. He purchased three sealed packets of Divya Dhara Rice Bran Cooking Oil from the accused against cash payment of ₹ 150/- vide receipt Ex.PB. All the formalities were completed on the spot, including putting the purchased food article in three dry and clean plastic jars. The jars were labelled, stoppered, secured, fastened and then wrapped in a strong and thick paper. A paper slip issued by the Local Health Authority bearing serial number and code number of the Local Health Authority was wrapped around each sample container. Thereafter, one sealed bottle of sample along with copy of Form VII was sent to the Public Analyst in a sealed bag for analysis. One copy of Form VII bearing seal impression used to seal the sample was also sent to Public Analyst in a sealed envelope. Report of the Public Analyst was received vide Ex.PD. Second part of the sample was sent to the Director, CFL, Mysore for analysis on the request of the accused, whose report is Ex.PG.

8. The sample was taken on 18.05.2004. It was sent to Public Analyst, Punjab, for analysis on the same day. Its analysis started on the same very day, i.e. 18.05.2004, and was completed on 01.06.2004. It was within six months from the date of its packing, i.e. 09.02.2004. The acid value of the contents of the sample was found 1.5% against the maximum prescribed standard of 0.5%.

9. The courts below have rightly relied upon the reports of the Public Analyst and the Director, Central Food Laboratory, Mysore. The Director, Central Food Laboratory, Mysore, has specifically mentioned in his report Ex.PG that the sample of Divya Dhara Rice Bran Cooking Oil did

not conform to the standards laid down for Rice Bran Oil under the Act and Rules thereof.

10. The prosecution has established its case against the petitioner beyond reasonable doubt. The judgments rendered by both the courts below convicting the petitioner under Section 7 (i) of the Act, punishable under Section 16 (1) (a) (i) of the Act, are upheld. However, taking into consideration the fact that the sample was drawn on 18.05.2004 and the petitioner has faced the agony of criminal case for more than 15 years, the sentence of imprisonment of the petitioner is reduced to the period already undergone.

11. Petition is, accordingly, disposed of.

May 28, 2019
ndj

(**RAJIV SHARMA**)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes