

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

CRR-1061 of 2014

Reserved on : 30.04.2019

Date of decision : 24.05.2019

Taranjit Singh

.... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Rakesh Bhatia, Advocate,
for the petitioner.

Mr. S.P.S. Tinna, Additional Advocate General, Punjab.

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RAJIV SHARMA, J.

1. This revision petition is directed against judgment and order dated 11.10.2013, rendered by learned Chief Judicial Magistrate, Fatehgarh Sahib, in Case No. 05 dated 23.01.2017, as well as against judgment dated 20.03.2014, passed by learned Additional Sessions Judge, Fatehgarh Sahib, in Criminal Appeal No. 78 dated 23.10.2013.

2. Petitioner Taranjit Singh was charged with and tried for the offences punishable under Section 16 of the Prevention of Food

Adulteration Act, 1954 (hereinafter referred to as 'the Act'). He was convicted and sentenced by the learned trial court to undergo simple imprisonment for six months and to pay a fine of ₹ 1,000/- and in default of payment of fine, to undergo further imprisonment for 15 days, under Section 16 of the Act. Against his conviction and sentence, the petitioner filed appeal, which has been dismissed by learned Additional Sessions Judge, Fatehgarh Sahib.

3. The brief facts necessary for adjudication of this revision petition are that respondent/State through Food Inspector Paramjit Singh, Office of Civil Surgeon, Fatehgarh Sahib, filed complaint under Section 7/16 of the Act, against the petitioner with the averments that complainant Paramjit Singh on 07.06.2006 at about 4.00 PM along with Dr. Vinod Gupta, Medical Officer, Civil Hospital, Mandi Gobindgarh, inspected the premises of the petitioner. He was found in possession of 7 plastic crates of Banta Soda kept in room for sale and consumption. The complainant made efforts to join witnesses from the public. However, no person joined the investigation. The complainant disclosed his identity as Food Inspector to the petitioner. He showed his intention to take sample by serving notice in writing in Form VI. The complainant purchased nine bottles of Banta Soda on payment of ₹ 99/-. He obtained the receipt. The purchased nine bottles were divided into three equal parts of three bottles in one sample packet. The bottles were labeled and wrapped into thick brown paper. The paper slip was also duly signed by the Local Health Authority, Fatehgarh Sahib. All the three samples were sealed with seal bearing impressions and signatures of the complainant. The signatures of the petitioner were obtained partly on the slip and partly on the wrapper. The spot memo was

prepared. The memorandum of Form VII was also prepared. One part of the sample and one copy of memorandum in Form VII duly sealed were given to Malkiat Singh, Class IV employee, for depositing with the Public Analyst, on 07.06.2006. The other two sample parcels were deposited with the office of Local Health Authority, Fatehgarh Sahib, on the same day. The result of the Public Analyst was that the contents of the sample contained saccharin as artificial sweetener to the extent of 80 P.P.M whereas the containers did not bear a label declaration regarding the addition of saccharin as required under the provisions of Rule 42 (zzz) (i) of PFA Rules, 1955. The product was also not labelled in accordance with the provisions of Rule 32 of PFA Rules, 1955. Thus, the sample was misbranded. Complaint was filed against the petitioner.

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. He was convicted and sentenced by the trial court, as noticed here-in-above. The appeal filed by him 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. Learned counsel appearing on behalf of the State has supported the judgments of the courts below.

6. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

7. PW.1 Dr. Vinod Gupta, Medical Officer, was accompanying the Food Inspector. He testified with regard to drawing of samples of Banta

Soda from possession of the petitioner. The Food Inspector tried to join independent witnesses, but no body came forward. The petitioner was served notice in Form VI vide Ex.PW.1/A. Receipt was obtained. PW.2 Paramjit Singh complainant referred to documents Ex.PW.1/A to Ex.PW.1/C. He proved report of the Public Analyst, Ex.PD, and complaint Ex.PE. PW.3 Paraminderjit Singh, Food Clerk, proved notice dated 23.01.2007, Ex.PW.3/A, and postal receipt Ex.PW.3/B. PW.4 Malkiat Singh, Class IV employee, deposed that he deposited sample in the office of Public Analyst, Punjab, Chandigarh, with seals intact.

8. It has come in the statement of PW.1 Dr. Vinod Gupta that Paramjit Singh complainant was present on the spot and completed all the formalities. An opportunity was afforded to the petitioner to cross-examine Paramjit Singh on 15.12.2010, but he sought adjournment. On 23.08.2013, report with regard to death of complainant Paramjit Singh was received. The sample was drawn from the premises of the petitioner on 07.06.2006. Notice was served upon him. PW.3 Paraminderjit Singh has proved due compliance of Section 13 (2) of the Act, by sending report of the Public Analyst to the petitioner under registered cover. He has proved report/notice vide Ex.PW.3/A. PW.4 Malkiat Singh had taken the sample of Banta Soda to Public Analyst. He neither tampered with the sample nor allowed any one to do so. There was no declaration regarding addition of saccharin as required under Rule 42 of the PFA Rules, 1955, and Banta Soda was not labelled in accordance with Rule 32 of the said Rules.

9. The courts below have correctly appreciated the oral as well as documentary evidence. The samples were drawn on 07.06.2006. The petitioner has faced the agony of criminal case for almost 13 years.

Accordingly, conviction of the petitioner is upheld. However, his sentence of imprisonment is reduced to the period already undergone.

10. Petition is, accordingly, disposed of.

May 24, 2019
ndj

(**RAJIV SHARMA**)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes