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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.L.P. 536/2019**

STATE

..... Petitioner

Through: Ms Kusum Dhalla, APP for State.

versus

VIRENDER KHANNA

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.10.2019

CRL.M.A. 36964/2019

1. Allowed, subject to all just exceptions.

CRL.L.P. 536/2019 & CRL.M.A. 36963/2019

2. The State has filed the present petition seeking leave to appeal against the judgment dated 02.04.2019 passed by the Additional Chief Metropolitan Magistrate, whereby the respondent was acquitted of the offences under Section 7/16(1)(a) of the Prevention of Food Adulteration Act, 1954.

3. The respondent is engaged in the business of retailing of small eats and food articles including '*bhujia*'. It is stated that the Food Inspector had picked up six sealed packets of 250 gm. each of the said product (*bhujia*) (hereafter 'the food articles'). The said samples were, thereafter, sent to the Public Analyst. There is no allegation that the food articles did not meet the requisite standards. Nonetheless, a complaint was filed alleging that the

respondent had violated Rule 32(i) of the Prevention of Food Adulteration Rules, 1955 (hereafter 'the Rules'), inasmuch as the packaging did not fulfil the requirements of the Rules. It is stated that the label on the food articles included the word "pkd June 09" and "B.F Sept./09". According to the complainant (as made by the officials of the food department), the same does not comply with the Rule 32(i) of the Rules as the packaging did not mention "Best Before" date. The Court noted that although the words "Best Before" were not printed on the packaging; it did indicate the initials "B.F." and also provided the month and the year.

4. It is also noticed that the respondent was not the manufacturer of the product and had merely purchased the same from the manufacturer. Keeping the aforesaid in mind and considering that the packaging did mention the 'Best Before date' although the words 'Best Before' were not specifically printed. The Court found that the evidence had not been led to establish that the respondent had committed the offence, beyond reasonable doubt.

5. Keeping in view the totality and circumstances, this Court does not find any reason to interfere with the aforesaid judgment. The Supreme Court in ***Ghurey Lal v. State of Uttar Pradesh: (2008) 10 SCC 450*** held that the presumption of innocence must be maintained and a Court would not interfere with the order of acquittal until it finds compelling reasons to do so. Given the facts and circumstances of this case, this Court is unable to find any such compelling reasons.

6. It is also noticed that this appeal had been filed belatedly. There is an inordinate delay of eighty-five days in filing the appeal. The only

explanation provided in the application for condonation of delay is that the delay was caused as the Additional PP had rendered an opinion that this was not a fit case to file an appeal. In the said circumstances, the files were escalated and, thereafter, DLA Prosecution Commissioner had opined that the above appeal be submitted for approval. The delay has not been explained on a day-to-day basis. Secondly, a difference of opinion as to whether an appeal ought to be filed cannot be considered as a reasonable ground for delay.

7. In view of the above, the application seeking condonation of delay is rejected. The present petition seeking leave to appeal against the impugned judgment is rejected both on the grounds of merits, as well as on account of delay.

VIBHU BAKHRU, J

OCTOBER 31, 2019
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