

11.06.2021
Sl No.18
Ct. No.34
S.De

CRR 934 of 1994
with
I.A. No. CRAN 4 of 2020 (Old No. CRAN 1208 of 2020)
Manash Kumar Ghosh @ Manas Ghosh.
Versus
The State of West Bengal.

Mr. Malay Bhattacharya ...for the petitioner.

Md. Anwar Hossain
Ms. Sreyashee Biswas ...for the State

The fact of the case relates to a judgment dated 25.08.1993 in which the present petitioner was convicted under Sections 7/16 of Prevention of Food Adulteration Act for violation of the rules therein and was directed to undergo sentence of R.I. for 3 months and to pay a fine of Rs.500/- i.d. further R.I. for 15 days.

Being aggrieved, the present petitioner approached the learned Sessions Judge, Bankura in appeal, and the learned Court on an appreciation of the evidence as well as the judgment delivered by the learned Trial Court was pleased to affirm the order of conviction and sentence.

The petitioner, thereafter, preferred the instant revisional application. The substratum of the offence which has been complained of by the Food Inspector of Bishnupur Municipality is that the petitioner was carrying out a Sweet-Meat Shop without having a proper licence from the municipal authorities. Records reflect that the violation was detected on 30.07.1987. Records also reflect that the prosecuting agency in order to substantiate its case relied upon PW-1, Kartick Chandra Saha and the Food Inspector PW-2, Aswini Kumar Chanda an employee of the

authorities who proved the service of the notice and relevant documents. Evidence of PW-1 reflects that the prosecution relied upon the report of PW-1 (Exhibit-1) which was submitted by him before the licensing authority, the endorsement with the signature which was marked as Exhibit 1/1 by the licensing authority, the notice which was sent to the accused(exhibit-2), a subsequent report of PW-1 (exhibit-3), endorsement with signature of licensing authority (exhibit3/1), the petition of complaint which was marked as exhibit 4 and the sanction granted by the local health authority (exhibit-4/1).

Records of this revisional application reflects that during the pendency of this revisional application on or about 13.11.2019, the petitioner was arrested and produced before the jurisdictional Court, the order for release of the petitioner was passed on 03.01.2020 and as such in the mean time, the petitioner has suffered more than fifty days in custody.

I have considered the evidence as well as the judgments delivered by both the learned Trial Court and the Appellate Court and on an appreciation of the same, I am of the view that no interference can be called for as far as the conclusion arrived at by the learned Courts below regarding the guilt of the accused of the present petitioner. However, there are certain circumstances which requires consideration and compels this Court to invoke its authority under Section 482 of the Code of Criminal Procedure, which are as follows:-

- i) The offence admittedly was committed on 30.07.1987.

- ii) Although, there were violations according to the law regarding license but there was no allegation regarding adulteration of any food material.
- iii) Petitioner during the pendency of the revisional application has already suffered more than 50% of the sentence.

In view of the aforesaid, I am of the opinion that an opportunity must be granted to the present petitioner to amend himself. As such I impose a fine of Rs.20,000/- (rupees twenty thousand only) to be submitted before the learned Additional Chief Judicial Magistrate, Bishnupur within a period of twenty one days from date, preferably within 3rd of July, 2021, in the alternative learned Additional Chief Judicial Magistrate, Bishnupur would exhaust the process of law and implement the earlier sentence so imposed by the Ld. S.D.J.M., Bishnupur in the order dated 25.08.1993.

The learned Additional Chief Judicial Magistrate, Bishnupur is directed, in case such fine is deposited within the date as specified above, the accused may be released and relieved from suffering any sentence. 90% of the fine so collected should be forwarded to the concerned office of the Health Department which should be used for the development.

With the aforesaid directions CRR 934 of 1994 along with all connected applications are disposed of.

All parties are directed to act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)