

CRR 2522 of 2004
With
IA no. CRAN 1/2010 (Old No. CRAN 131/2010)

M/s. Krishna Traders, Firm and Others.
v.
The State of West Bengal and Another.

And

CRR 407 of 2004
Sadananda Roy and Another.
v.
State of West Bengal and Another.

Mr. Pawan Kr. Gupta,
Mr. Ajoy Choubey,
Ms. Sofia Nesar,
Mr. Rahul Kr. Pandey,
Mr. Santanu Sett,
Mr. Abhijit Bose

...for the Petitioners in **CRR 2522 of 2004**

Mr. Sourav Chatterjee,
Mr. Shiladitya Banerjee

...for the Petitioners in **CRR 407 of 2004**

Mr. Swapan Banerjee,
Ms. Sujata Das

...for the State in **CRR 407 of 2004**

Mr. Madhusudan Sur,
Ms. Sreyashee Biswas,
Mr. Dipankar Pramanick

...for the State in **CRR 2522 of 2004**

Mr. Goutam Dinda,
Mr. Anindya Sundar Chatterjee

...for K.M.C.

Since similar facts and law points are involved, these two revisional applications, preferred under Section 482 of the Code of Criminal Procedure, 1973, have been heard together.

CRR 407 of 2004 arises out of a judgment and order dated January 31, 2004, passed by the learned Additional Sessions Judge, 3rd Court at Suri, Birbhum, in Criminal Appeal No.9 of 2003. The learned Sessions Judge, by the said judgment and order, affirmed the judgment and order dated April 23, 2003, passed by the learned

Judicial Magistrate (1st Class), 2nd Court, at Suri, Birbhum, in Case No. C/202/99 (TR No.3/2000), whereby the petitioners were convicted for the commission of an offence punishable under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954. They were sentenced to suffer rigorous imprisonment for six months each and to pay a fine of Rs.1,000/-, in default, to suffer rigorous imprisonment for 30 days each.

It was the case of the prosecution that on June 15, 1999, the relevant Food Inspector of Birbhum inspected the Sweetmeat Shop of the petitioners and purchased nine bottles of mineral water for analysis by the Public Analyst. The report of the Public Analyst suggested that the mineral water was adulterated. Accordingly, a complaint was lodged by Dr. Gopal Prasad Sah, the Assistant Chief Medical Officer of Health, before the jurisdictional Judicial Magistrate at Suri for trial under the Prevention of Food Adulteration Act, 1954.

In this revisional application, an interim order of stay was granted on February 25, 2004, by a Coordinate Bench of this Court. Thereafter, the revisional application was dismissed for default by another Coordinate Bench on July 08, 2021, and the said interim order was vacated. After the dismissal of this revisional application, the petitioners were arrested on October 21, 2021. By another Coordinate Bench, the matter was restored on October 28, 2021, and the petitioners were released on interim bail.

Mr. Sourav Chatterjee, learned advocate appearing for the petitioners, submits that the present proceeding was instituted way back in June 1999 and the petitioners have been facing the ordeal of pursuing the present criminal proceeding for more than 23 years and the present criminal revision has also pending for more than 19 years. He further submits that petitioner no.1 is aged about 75 years and

petitioner no.2, who is the son of petitioner no.1, is aged about 54 years. Both of them are suffering from various ailments and are under regular medication. By placing reliance upon the judgment reported at **(1987) 2 SCC 645 (Bhagwan Das Motu Lal Navalani v. State of Maharashtra); (1988) 4 SCC 130 (Braham Dass v. State of Himachal Pradesh); (1998) 9 SCC 678 (Haripada Das v. State of West Bengal); (2010) 4 SCC 562 (Nand Lal v. State of Uttarakhand)** and **(1974) 4 SCC 491 (Shri Ram Labhaya v. Municipal Corporation Of Delhi)**, Mr. Chatterjee prays for an appropriate order of reduction of the sentence imposed upon the petitioners to the period already undergone.

On the merits of the case, it is submitted by Mr. Chatterjee that P.W.3 (Dr. Gopal Prasad Sah) had confessed in his cross-examination that the report of the public analyst did not bear the name of the bacteria and that all bacteria are not harmful to human beings.

He further submits that the mineral water bottles seized from the petitioners were sealed and packed. The said mineral bottles were not manufactured by the petitioners and the manufacturers were acquitted by the learned Magistrate. It was not the case of the prosecution that the petitioners were the manufacturer of the mineral water bottles in question. The petitioners are, therefore, entitled to be protected under Section 19(2)(b) of the Prevention of Food Adulteration Act, 1954.

CRR No.2522 of 2004 arises out of a judgment and order dated March 11, 2004, passed by the learned Sessions Judge, third Bench, City Sessions Court at Calcutta in Criminal Appeal No.9 of 2000, whereby the learned Sessions Judge affirmed the judgment and order dated December 28, 1999, passed by the learned Municipal Magistrate, third Court at Calcutta in Case No.47D of 1988 under

Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954. The learned Magistrate sentenced petitioner nos. 2 and 3 to suffer simple imprisonment for six months each with a fine of Rs.2,000/- each, in default, it was directed that they would have to undergo simple imprisonment for an additional period of two months.

It was the case of the prosecution that on May 13, 1988, the relevant Food Inspector inspected the premises of M/s Krishna Traders at Calcutta. Being suspicious about the standard of quality of the tea stored at the said premises, and, therefore, he purchased 375 gms of tea from petitioner nos. 2 and 3. The sample of Tea was sent to the Public Analyst, who opined that the percentage of ash contained in the sample tea was above the standard prescribed by the said Act. Accordingly, a complaint was lodged before the jurisdictional Magistrate.

Mr. Pawan Kr. Gupta, learned advocate appearing for the petitioner in CRR No.2522 of 2004, submits that the alleged offence took place about thirty-four years ago. This revisional application has been pending before this Court for about twenty years. Both the petitioners have served a part of the sentence after the judgment of the trial court. In view of such protracted legal proceedings, they are entitled to the benefit of consistent views of the Hon'ble Supreme Court, where the Supreme Court maintained the conviction but reduced the sentence to the period already undergone. He placed reliance upon the following judgments of the Supreme Court reported at **(1997) 9 SCC 101 (N. Sukumaran Nair v. Food Inspector, Mavelikara)**; **AIR 1979 SC 701 (M.K. Ananda Rao v. State of A.P.)**; **(1996) 4 SCC 513 (Krishan Gopal Sharma v. Govt. of N.C.T. of Delhi)** and upon a judgment of Punjab and Haryana High Court

reported at **(2009) SCC OnLine P&H 4888 (Satish Kumar v. Union Territory Chandigarh)**.

In both the cases, I am of the view that the concurrent findings of the learned Magistrate and the learned Sessions Judge do not call for any interference in exercise of revisional power of this Court under Section 482 of the Code of Criminal Procedure, 1973. At the same time, the inordinate delay in disposal of the present two criminal cases cannot be ignored. The alleged offence involved in CRR No.407 of 2004 occurred on June 15, 1999, while in CRR No.2522 of 2004, the same took place on May 13, 1988.

It is evident from the judgments relied upon by the petitioners in both the cases that the Supreme Court in many cases, dealing with the offences under the Prevention of Food Adulteration Act, 1954 reduced the sentence imposed upon the accused by the trial court to the period already undergone, in view of inordinate delay in conclusion of the proceedings. It must be borne in mind that those judgments were passed having regard to the nature of the violation of the said Act by the accused persons in that case. It cannot be said that Supreme Court has laid down any law that every accused person under the Prevention of Food Adulteration Act, 1954 is entitled to such relief simply because there had been some delay in conclusion of the proceedings.

In CRR No. 407 of 2004, the trial court took approximately four years to convict the petitioners at the culmination of the trial, with an additional one year taken by the appeal court to uphold the order of conviction. In CRR No. 2522 of 2004, there was a significant delay of roughly eleven years between the date of the alleged offence and the petitioners' conviction by the trial court. Following this, another five

years were expended in appeal. These two revisional applications have remained before this Court for nearly two decades.

Having regard to the nature of the offences alleged to have been committed under the said Act, these two cases also call for providing the same nature of relief as granted by the Supreme Court in the cases referred to above.

In view of the aforesaid, both the revisional applications, CRR No.407 of 2004 and CRR No.2522 of 2004 are disposed of by reducing the sentences of the petitioners as imposed by the trial courts in both the cases to the periods already undergone and by enhancing the fine to Rs. 50,000/- each.

The petitioners in CRR No.407 of 2004 shall deposit the said fine of Rs. 50,000/- to the District Legal Services Authority, Birbhum and the petitioners in CRR No.2522 of 2004 shall deposit the said fine of Rs. 50,000/- to the Commissioner, Kolkata Municipal Corporation within a period of two months from date. In default, the learned Magistrates in the trial courts will be at liberty to issue non-bailable warrants of arrest against the petitioners for serving the sentences as directed by them.

Let the Lower Court Records of CRR No.407 of 2004 be sent back.

Accordingly, **CRR No.407 of 2004**, and **CRR No.2522 of 2004** along with the application being **IA No. CRAN 1 of 2010 (Old No. CRAN 131 of 2010)** are disposed of.

(Kausik Chanda, J.)