

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

302

CRR-697-2006 (O&M)

Date of decision : 04.07.2023

Amar Singh

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Sween Chaudhary, Advocate for
Mr.Rahul Deswal, Advocate for the petitioner

Mr.Dhruv Sihag, AAG, Haryana

AMAN CHAUDHARY, J.

1. Present revision petition has been preferred against the judgment dated 16.03.2006 passed by learned Sessions Judge, Kaithal dismissing the appeal filed against the judgment and order dated 11.01.2002 rendered by learned Chief Judicial Magistrate, Kaithal vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- and in default of payment of fine to further undergo RI for one month for the offence punishable under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short 'the Act').

2. The facts relevant to the present case are that on 29.5.2009 accused Amar Singh was intercepted by Govt. Food Inspector with Dr.Iqbal Singh, at near bypass Pehowa Road, Kaithal, having in possession about 70 liters of cow milk contained in three drums, for public sale. After due procedure, the samples were drawn and sealed. The same were sent to the

Public Analyst, Haryana, Karnal on the same day for analysis. As per the report received therefrom, the milk was found to be adulterated, on the basis of which, Govt. Food Inspector, filed a complaint under Section 7 read with Section 16(1)(a)(i) of the Act before the Chief Judicial Magistrate, Kaithal, a complaint against the petitioner. The accused-petitioner was charge sheeted for the said offences, to which he pleaded not guilty and claimed trial.

3. To prove its case, the prosecution examined as many as four witnesses. After closure of the prosecution evidence, statement of the accused was recorded under Section 313 CrPC, wherein the accused denied all the allegations of the prosecution levelled against him and pleaded his innocence. No evidence in defence was led by him.

4. On scrutinizing the evidence led by the parties, the trial Court convicted and sentenced the petitioner as noticed above. Being aggrieved, the petitioner filed an appeal, which was dismissed by learned Sessions Judge, Kaithal vide judgment dated 16.02.2006.

5. Hence, the present revision petition.

6. Learned counsel on instructions submits that the petitioner does not wish to challenge the conviction but he prays for the reduction of his sentence to the period of about 2½ months, already undergone by him, on the ground that he is a poor person, the sole bread winner of his family, having wife and children, facing the mental agony of protracted trial since 1997 and not involved in any other case. He places reliance on **Umrao Singh vs. State of Haryana** 1981 AIR (SC) 1723, **Babu Ram vs. State of Haryana** 1987 SCC (Cri) 610 and **Satbir vs. State of Haryana** 2019(3) RCR (Crl.) 354.

7. On the other hand, learned counsel for the State submits that the Courts below have rightly convicted and sentenced the petitioner, thus, he prays for the dismissal of the present revision petition. However, he is unable to controvert the submission regarding the involvement of the petitioner in any other case.

8. Though, the petitioner has given up challenge to the conviction and has prayed for reduction of his sentence as having been undergone, still having perused the judgment of the trial Court, wherein it is found that the evidence was thoroughly examined and it was rightly observed that the prosecution has proved its case beyond shadow of reasonable doubt against the accused-petitioner based on the testimonies of the witnesses that on 22.05.1997, while the petitioner was selling cow milk, he was apprehended and sample of 750 Mls the milk was taken, which as per the Public Analyst report Ex.PD, was found to be adulterated as it was containing 7.9% milk solids not fact against the minimum prescribed limit of 8.5%. The Additional Sessions Judge dismissed the appeal filed by the petitioner on finding no illegality or infirmity in the judgment of conviction and order of sentence passed by the learned trial Court. Accordingly, both the Courts below after having scrutinized the evidence on record have convicted the petitioners and there is no scope for interference in the concurrent findings recorded by both the Courts below. As such, the conviction of the petitioners is affirmed.

9. Regarding the contention of the petitioner for reduction of the sentence, it is apposite to refer to the judgment in **Umrao Singh** (supra), wherein the percentage of deficiency in sample of milk was found to be

0.4% in fat contents but finding that accused was an old man suffering from asthma with clean past record, Hon'ble The Supreme Court reduced the sentence to the period already undergone by the appellant.

10. In **Des Raj vs. State of Haryana**, 1996(1) RCR (Crl.) 689 it has been held thus:

"9. Now, it is well settled that the right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. Fundamental rights are not a teasing illusion to be mocked at. These are meant to be enforced and made a reality. Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the social interest also, does not make it any-the-less right of the accused. Right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. This is how the courts shall understand this right; and have gone to the extent of quashing the prosecution after such inordinate delay in concluding the trial of an accused keeping in view the facts and circumstances of the case. Keeping a person in suspended animation for 8 years or more without any case at all cannot be with the spirit of the procedure established by law. It is correct that although minimum sentence to be imposed upon a convict is prescribed by the statute yet keeping in view the provisions of Article 21 of the Constitution of India and the interpretation thereof qua the right of an accused to a speedy trial, judicial compassion can play a role and a convict can be compensated for the mental agony which he undergoes on account of protracted trial due to the fault of the prosecution by this Court in the exercise of its extraordinary jurisdiction.

10. An identical question had arisen before the apex Court in *Braham Dass's* case (supra), wherein their lordship were pleased to observe as under:

'Coming to the question of sentence, we find that the appellant had been acquitted by the trial Court and High Court while reversing the judgment of acquittal made by the appellate Judge has not made clear reference to clause (f). The occurrence took place about more than 8 years back. Records show that the appellant has already

suffered a part of the imprisonment. We do not find any useful purpose would be served in sending the appellant to jail at this point of time for undergoing the remaining period of the sentence, though ordinarily in an antisocial offence punishable under the Prevention of Food Adulteration Act the Court should take strict view of such matter.'

This view was followed by this Court in **Nand Lal v. State of Haryana**, and Ishwar Singh's case (supra). The present case is fully covered by the view expressed by the apex Court and by this Court in the judgments cited above and I have no reason to differ therewith.

11. For the reasons mentioned above, the conviction of the petitioner for an offence under Section 16(1)(a)(i) read with Section 7 of the Act is hereby maintained. However, keeping in view the facts and circumstances of the case and the fact that the petitioner has already faced the agony of the protracted prosecution and suffered mental harassment for a long period of eight years, his sentence is reduced to the period of sentence already undergone. Sentence of fine is, however maintained along with its default clause."

11. It is settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

12. Considering the judgments referred to hereinabove and the mitigating circumstances as brought out in the present case that the petitioner a 50 year old; is a poor person; sole bread winner of his family; has faced the pain and agony of prolonged trial for the last 25 years, is not a previous convict and has by now assimilated well in the mainstream of society, therefore, this Court finds that at this stage, to make him undergo the remaining portion of his sentence would serve no useful purpose and the ends of justice would be adequately met if the sentence of the petitioner is reduced to the period already undergone by him.

13. Accordingly, while upholding the conviction of the petitioner in the criminal revision petition, the sentence is ordered to be reduced to the period already undergone by the petitioner. Fine shall remain intact.

14. With the above modification in the order of sentence dated 11.01.2002 passed by the trial Court, the criminal revision petition is partly allowed.

04.07.2023
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes	/	No
Whether reportable	:	Yes	/	No