

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1537 of 1993

Hari Prasad Agarwala & Ors.

-Vs-

The State of West Bengal

For the Petitioners : Mr. Sandip Chakraborty
Mr. Manjoy Malhotra
Mr. Koustav Das

For the State : Ms. Sreyashee Biswas

Heard on : 24.01.2024, 27.02.2024, 06.05.2024

Judgment on : 31.07.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioners against the judgment and order dated 17th July, 1993 passed by the Learned Additional Sessions Judge, First Court, Nadia at Krishnanagar in Criminal Appeal No. 7 of 1992 upholding the order of conviction dated 10th March, 1992 passed by the Learned Chief Judicial Magistrate, Nadia in Case No. 410C of 1983 under Sections 16(1A) (1) read with Section 7(1) of the Prevention of Food Adulteration Act and sentenced them to undergo rigorous imprisonment for one year and pay a fine of Rs.10,000/- each in default to suffer imprisonment for one month.

2. A complaint was lodged by the District Health Officer, Nadia alleging a go-down at Karimpur Bazar was inspected by Sub-Divisional Food Inspector, Sadar Sub-Division, Nadia on 20.06.1983. In the absence of the seller 8585 kg Arhar Dal stored in bags, presumably adulterated, were detected by the aforesaid Inspector at the said go-down. Samples collected in separate bottles were sent to the Public Analyst, Nadia and two others to the local health authority. The report dated 27.06.1983 indicated the samples to be adulterated.
3. Subsequently case no. 410C of 1983 was instituted in the Court of the Chief Judicial Magistrate, Nadia under Sections 16(1A) (1) read with Section 7(1) of the Prevention of Food Adulteration Act, 1974.
4. Charges were framed against the accused persons under the aforesaid Sections to which they pleaded not guilty and claimed to be tried.
5. The prosecution examined two witnesses and exhibited certain documents while the defence examined two witnesses. During the pendency of the appeal, petitioner no.1 and 3 expired and accordingly the instant revisional application had become infructuous as far as petitioner no.1 and 3 are concerned.
6. The evidence adduced by PW-1 stated the petitioners no.1 and 2 to be the residents of Calcutta who did not own the go-down at Karimpur Bazar. PW-3 was the employee of a garment shop belonging to Durga Prasad Agarwala. PW-1 had endorsed the documents at the instance of a peon namely Mohan Ghosh and was unaware as to whether there was a physical inspection of the go-down. PW-1 denied of weighing of any article at his shop. During

his cross-examination, PW-1 denied of owning a shop at Karimpur Bazar closed to the go-down, the purchase of sample of Arhar Dal from the go-down by PW-2 and service of notice was even payment of value of the sample. He denied the process of sampling along with seal and lable to have been affixed in his presence. He further deposed to have obliged the peon Mohan Ghosh to operate his business without hindrance. PW-2 the Sub-Divisional Food Inspector stated the manner in which he conducted the raid at the go-down of the petitioners accompanied by the peon Mohan Ghosh. PW-1 and 2 were not present at the time of such inspection however PW-3 was present in the go-down. Admittedly petitioner no.1 and 2 had been the residents of Kolkata being the nephews of petitioner no.3 who was employed in a cloth shop. The entire course of inspection is vitiated considering the storage of Arhar Dal at the cloth shop.

7. The prosecution did not prove that the said article was stocked or stored for the sake of sale or any other purpose contrary to the provisions of the said Act. Prosecution failed to produce Mohan Ghosh the primary instigator in the instant case. PW-1 entirely refuted the prosecution story of seizure of the commodity from the shop. In his cross-examination PW-1 stated to have signed the seizure list under compulsion and threat on the part of Mohan Ghosh. The entire episode of raid in the cloth shop appeared to be concocted. The role of the petitioners in violating the terms and conditions of the said Act had not been categorized to comprise an offence under Sections 16(1A) (1) read with Section 7(1) of the Prevention of Food Adulteration Act.

8. In view of the above discussions, the judgment and order dated 17th July, 1993 passed by the Learned Additional Sessions Judge, First Court, Nadia at Krishnanagar in Criminal Appeal No. 7 of 1992 upholding the order of conviction dated 10th March, 1992 passed by the Learned Chief Judicial Magistrate, Nadia in Case No. 410C of 1983 under Sections 16(1A) (1) read with Section 7(1) of the Prevention of Food Adulteration Act is set aside.
9. Under such circumstances, the criminal revisional application being CRR 1537 of 1993 stands allowed.
10. Accordingly, the instant revisional application is disposed of.
11. There is no order to costs.
12. Lower court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
13. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)