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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(212)

CRR-2583-2010 (O&M)
Date of Decision: 20.12.2024

K.C. AhujaPetitioner

Versus

State of Haryana ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishwajit Bedi, Advocate,
with Mr. Sarthak Mehta, Advocate and
Mr. H.S. Randhawa, Amicus Curiae,
for the accused-petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 06.09.2010 passed by the Additional Sessions Judge, Gurgaon, whereby the appeal filed against the judgment of conviction and order of sentence dated 18/19.12.2009 passed by the Chief Judicial Magistrate, Gurgaon has been dismissed.



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2. The complaint in the present case came to be registered on 24.01.1999. The judgment of conviction and order of sentence was passed on 18/19.12.2009. The appeal against the judgment of conviction and order of sentence was dismissed on 06.09.2010. This revision petition was filed on 17.09.2010 and has come up for final hearing now i.e. after a period of 25 years having elapsed from the date of the filing of the complaint.

4. The brief facts of the case are that the complainant i.e. Government Food Inspector inspected the premises of K.C. Ahuja (accused-petitioner), salesman at M/s Elumanda Departmental Store, Jharsa Road, Gurgaon and found him in possession of 10 bottles of mustard oil of Kirti brand for public sale. Samples of the same were taken and sent for analysis. The samples were found to be adulterated with the Argermone oil and hence, unfit for human consumption.

5. A complaint was filed and the accused-petitioner was ordered to be summoned for Trial. Charges under Sections 16(1)(a)(i) were framed against him by the Chief Judicial Magistrate, Gurgaon, to which he pleaded not guilty and claimed Trial.

6. Post-charge, PW-1 Mahavir Singh, GFI, PW-2 Dr. Munish Bhalla and PW-3 Jaivir, LHA Clerk were examined.

7. The statement of the accused-petitioner was recorded under Section 313 Cr.P.C. wherein he pleaded false implication and in defence examined himself.



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8. Based on the evidence led, the accused-accused-petitioner came to be convicted and sentenced by the Court of the Chief Judicial Magistrate, Gurgaon vide judgment and order of sentence dated 18/19.12.2009 as under:-

Offence Sections	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954		RI (06 months)	Rs.1000/-	SI (01 month)

9. The accused-petitioner preferred an appeal which came to be dismissed by the Court of the Additional Sessions Judge, Gurgaon, vide judgment dated 06.09.2010.

10. The aforementioned judgments are under challenge in the present petition.

11. The learned counsel for the accused-petitioner alongwith the Amicus Curiae Mr. H.S. Randhawa, Advocate, contend that the judgments of conviction have been passed on the basis of conjectures and surmises. PW-2-Dr. Manish Bhalla, Medical Officer, had admitted in his cross-examination that the accused-petitioner was working as a salesman at M/s Elumanda Departmental Store and could not have been held to be liable as the liability, if any, lay with the proprietor. An application had been moved by the accused-petitioner before the Trial Court to implead the owner of M/s Elumanda Departmental Store as well as the manufacturer of the



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product as accused and as the said application had not been decided by the Trial Court, the accused-petitioner had moved another application for impleading the owner and distributor of the product but the said application was dismissed arbitrarily without any cogent reason. On this account, the accused-petitioner was unable to substantiate his defence. They further contend that the documents Ex.D-1 to D-3 i.e. photocopies of bills were not considered in their proper perspective. They, thus, contend that the impugned judgments were liable to be set aside.

In the alternative, they pray that, in case, this Court was to come to the conclusion that the convictions were to be upheld, then, keeping in view the fact that the complaint was filed in the year 1999 and the matter has come up for hearing after a gap of 25 years, the sentence of the accused-petitioner be reduced to the minimum period prescribed i.e. 03 months as has been held in the case of '*Babu Ram versus State of Haryana, (Criminal Appeal No.607 of 1986 and Special Leave Petition (Criminal) No.1594 of 1986 decided on 24.11.1986*)'.

12. The learned counsel for the State, on the other hand, has placed on record a custody certificate of the accused-petitioner dated 18.12.2024, as per which, the accused-petitioner has already undergone 02 months and 28 out of his substantive sentence of 06 months. While referring to the evidence, he contends that no fault could be found with the judgments of the Trial Court and the Lower Appellate Court. The offence



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against the accused-petitioner stood established beyond reasonable doubt. The mustard oil recovered from the shop was found to be mis-branded. Thus, the present petition was liable to be dismissed.

13. I have heard the learned counsel for the parties and gone through the record.

14. A perusal of the material on record would show that the offence against the accused-petitioner stands established beyond reasonable doubt. It is apparent that the shop in which the accused-petitioner was working as a salesman was raided and he was found in possession of adulterated mustard oil. The accused-petitioner has been unable to substantiate his defence that the liability, if any, lay with the owner of the departmental store and the manufacturer and not with him as he was a mere salesman.

15. Therefore, I find no merit in the present petition and the same stands dismissed.

16. However, as regards the imposition of sentence, it may be noticed that the complaint came to be instituted in the year 1999. The accused-petitioner was convicted on 18.12.2009 by the Court of the Chief Judicial Magistrate, Gurgaon. His appeal was dismissed by the Lower Appellate Court on 06.09.2010. The matter has come up for hearing now after a gap of 25 years. Therefore, keeping in view the judgment of the Hon'ble Supreme Court in *Babu Ram versus State of Haryana (supra)*, I



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deem it appropriate to reduce the substantive sentence of the accused-
petitioner from RI 06 months to RI 03 months. However, the payment of
fine and sentence in default of payment of fine shall remain intact.

(JASJIT SINGH BEDI)
JUDGE

December 20, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No