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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 502/2012 & CRL.M.A. 25731/2023**

STATE

.....Petitioner

Through: Mr. Naresh Kumar
Chahar, APP for the State
along with Mr. Gaurav
Gambhir, Mr. Pranay
Mehta, Mr. Saarangsh
Parashar, Mr. Shikhar
Vhardwaj, Mr. Lakshay
Singh Rawat & Ms.
Nandini Dinesh, Advs.

versus

ADALAT CHAURASIA & ANRRespondents

Through: Mr. Rajiv Dewan & Mr.
Dishant Vashisht, Advs.
for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

26.07.2024

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1. The present petition is filed under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the common judgment dated 22.11.2011, passed by the learned Additional Sessions Judge ('ASJ') in Criminal Appeal Nos. 41/2011 & 56/2011 (hereinafter '**the impugned judgment**').

2. By impugned judgment, the learned ASJ set aside the order dated 16.05.2011 passed by the learned Additional Chief Metropolitan Magistrate ('ACMM') in C.C. No. 121/2004, whereby Respondent No. 1 was convicted for the offence under Section 16(1A) read with Section 7 of the Prevention of Food Adulteration Act, 1954 ('PFA Act'), and sentenced to undergo a

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rigorous imprisonment for one year with a fine of Rs. 15,000/- with default sentence.

3. By the same impugned judgment, the learned ASJ also set aside the order of conviction dated 28.07.2011 and order on sentence dated 20.08.2011 passed by the ACMM in CC No. 182/2005, whereby Respondent No. 2 was convicted for the offence under Section 16 read with Section 7 of the PFA Act and sentenced to undergo rigorous imprisonment for one year with a fine of ₹10,000/-.

4. The respondents were charged under the provisions of PFA Act on an allegation that the sample of 'Dal Arhar', food article was found to be adulterated. It was alleged that the sample collected from the respondents was found to be mixed with synthetic colouring agent, that is, Tartrazine.

5. The learned ASJ set aside the orders of conviction and sentence relying upon various judgments passed by different High Courts. In ***Babubhai Ranchhodhbhai Chauhan v. State of Gujarat : Crl. Rev. No. 2936/1985***, the Hon'ble High Court of Gujarat held that if the report is signed by the analyst belatedly, it loses its evidentiary value. Further, reliance was also placed on the judgment passed by the Hon'ble Bombay High Court in the case of ***Laxmandas Sarvottamdas Doshi & co v. State of Maharashtra: 1974 SCC OnLine Bom 110***, to hold that mixing of foodgrain with Tartrazine will not render the article as adulterated in terms of Section 2(1)(j) of the PFA Act.

6. The learned Additional Public Prosecutor for the State has placed reliance upon ***Delhi Administration through its Designated Officer v. Ashwani Kumar: 2013:DHC:2389***, where a coordinate bench of this Court had held that the presence of



Tartrazine in 'Dal Arhar' is prohibited as per the prescribed standards under the Prevention of Food Adulteration Rules, 1955.

7. The case relates to the alleged collection of samples from the year 2005. The present petition was also filed in the year 2012. It was noted by this Court, that the present revision petition is not maintainable against the order of acquittal. Accordingly, by an order dated 01.02.2023 of this Court, the State was granted the liberty to move an appropriate application under Section 401(5) of the CrPC for rectifying the error. Despite multiple opportunities, no steps have been taken by the State till date, to rectify the said error. Thus, the present revision petition is not maintainable and is liable to be dismissed on this ground alone.

8. Even otherwise, this Court finds no infirmity in the impugned judgement passed by the learned ASJ. The learned ASJ noted that the analysis of the samples collected from Respondent No. 2 concluded on 26.05.2005, but the report was finally signed on 06.06.2005. Even the analysis of the sample collected from Respondent No. 1 concluded on 22.03.2004, but the report was finally signed on 06.04.2004. The learned ASJ rightly relied upon the judgments by the various High Courts to hold that the delay in signing the report would render the samples inadmissible in evidence.

9. The judgment passed by this Court in the case of ***Delhi Administration through its Designated Officer v. Ashwani Kumar*** (*supra*), will also not come in aid of the prosecution. This Court, in the said case, held that admittedly the sample of 'Dal Arhar' was found to contain the synthetic colour matter, that is,



‘Tartrazine’ which was prohibited and makes the food article adulterated, within the meaning of Section 2(ia)(m) of the PFA Act. Admittedly, the Court was not considering the fact of delay in the analysis of the sample.

10. It is admitted that samples in the present case were collected on 26.05.2005 and 22.03.2004 respectively, whereas the report was finally signed on 06.06.2005 and 06.04.2004 respectively. The delay in signing the report makes the evidentiary value of the primary evidence doubtful and the benefit of the same cannot be denied to the accused.

11. It is also settled law that when an appeal is filed against an order of acquittal, the Appellate Court shall generally not interfere, as the presumption of innocence of the accused is further strengthened by the acquittal. It is also settled that if two views are possible on the evidence adduced and one points to the guilt and other to the innocence of the accused, the view favourable to the accused should be adopted.

12. The Court is to interfere with the order of acquittal only when there are compelling and substantial reasons for doing so. As noted above, the case relates to the year 2005.

13. Thus, considering the aforesaid, I find no reason to interfere with the impugned judgment.

14. The present petition is, therefore, dismissed. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

JULY 26, 2024 / “SK”