

2026:PHHC:010721



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

**CRM-M-6237-2010 (O&M)
Date of decision : 13.02.2026**

Gurdeep Singh**...Petitioner**

Versus

State of Punjab through G.F.I.**...Respondent****CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. G. S. Sawhney, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*) seeking quashing of Complaint (number not mentioned), titled as ***State through GFI vs. Gurdeep Singh***, filed under Section 16 of the Prevention of Food Adulteration Act, 1954 (*for short 'PFA Act'*), which is pending before the Court of learned Chief Judicial Magistrate, SBS Nagar, along with all the subsequent proceedings having emanated therefrom.

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned complaint has been filed by the respondent through Govt. Food Inspector on the allegations that on 17.12.2008, he along with another member of his team namely Dr. Ashok Guru had visited the area of village Rahon. The grocery store of the

petitioner was inspected by them. 04 kgs. of turmeric powder was found to be kept in his grocery store, which as disclosed by the petitioner was meant for human consumption and public sale. After disclosing his identity to the petitioner, the Food Inspector purchased 750 grams of turmeric powder for a sum of Rs.45/- and obtained receipt from the petitioner. Three samples were drawn and were wrapped in thick khaki paper, which was labelled. One sample was sent to Public Analyst, Punjab, Chandigarh through a special messenger. Two packets of the seized samples were handed over to the office of LHA-cum-Civil Surgeon, Nawanshahr. As per the report of the Public Analyst, Punjab, rice starch was found to be mixed in the sample and, therefore, the contents of the sample were declared misbranded and adulterated. By alleging that the petitioner had committed an offence punishable under Section 16(1) of the PFA Act, prayer had been made for taking action.

3. After presentation of the complaint in the Court, notice was issued to the petitioner and feeling aggrieved, he has filed the present petition.

4. It is argued by learned counsel for the petitioner that the complaint filed by the respondent and the subsequent proceedings initiated on the basis thereof are not sustainable in the eyes of law and are liable to be quashed due to the reason that the quantity of the admixture present in the sample was not quantified nor was it specified in the report of the Public Analyst, Punjab that admixture of rice starch was injurious to health or was unfit for human consumption. It is further argued that mere presence of foreign matter in the sample did not make it unfit for consumption unless it was shown that some diseases were likely to be caused due to that reason.

5. It is further argued by learned counsel for the petitioner that

there was no allegation in the complaint that before taking sample of the turmeric powder, it was made homogenous. It was taken in the form of packets in clear violation of rules. The possibility of the samples to be tampered with cannot be ruled out as it is the own case of the prosecution that the samples were wrapped in thick khaki paper and not in containers as required under the rules. It is, therefore, argued that the petition deserves to be allowed and the impugned complaint and the subsequent proceedings are liable to be quashed.

6. Learned State counsel has argued that the petition is devoid of any merit as the report of the Public Analyst clearly establishes the presence of rice starch in turmeric powder, which is a prohibited extraneous substance under the prescribed standards of the PFA Act, thereby constituting adulteration *per se*. It is further argued that proof of actual injury to health is not a prerequisite for an offence under Section 16 of the PFA Act and mere violation of statutory standards is sufficient to attract penal liability. The question of homogeneity of sample, manner of sealing and alleged tampering are purely disputed questions of fact, which cannot be adjudicated in proceedings under Section 482 of the Code. It is further submitted that the complaint discloses a *prima facie* case for commission of subject offence and the trial Court has rightly taken cognizance. It is stressed that as such, interference at this stage would amount to stifling a lawful prosecution and hence the petition deserves to be dismissed.

7. This Court has heard the rival submissions made by the parties.

8. The petitioner is seeking quashing of the impugned complaint filed against him under Section 16 of the PFA Act, arising out of sampling of turmeric powder from his grocery shop, which was found to be containing rice starch as per the Public Analyst's report. The petitioner assails the

proceedings on the ground that the report does not quantify the alleged admixture nor declare it injurious to health and the mere presence of a foreign substance does not constitute adulteration. It is further urged that the sample was not made homogeneous and was improperly drawn and sealed, rendering the prosecution unsustainable and an abuse of the process of Court. The core issue for consideration before this Court is as to whether the impugned complaint and subsequent proceedings deserve to be quashed on the grounds as pleaded by the petitioner? In *Municipal Committee, Amritsar v. Arjan Singh 1973 Cri LJ 721*, the Division Bench of this Court held that mere detection of a foreign edible oil does not *per se* amount to adulteration under the PFA Act unless the quantity of such admixture is established, particularly when the foreign substance is neither injurious to human health nor specifically prohibited under the prescribed standards. While relying upon the ratio of law laid down in *Municipal Corporation of Delhi v. Sat Pal Kapoor (1962) 64 PLR 799*, it was further observed by the Division Bench that where the presence of a foreign substance is not absolutely prohibited, quantification thereof becomes a material and decisive factor and absence of such data renders the Public Analyst's report incomplete and unreliable and in cases where the admixture may be only in negligible traces, Section 95 of IPC would come into play, even in prosecutions under the PFA Act, as trivial or accidental admixture causing no real harm would not constitute an "offence".

9. Reliance can also be placed upon *Kashmiri Lal v. State of Punjab, 1984 (1) Crimes 742*, wherein this Court had held that mere presence of "suspended matter" in a food article does not *ipso facto* render it adulterated unless the prosecution establishes that such matter falls within the mischief of Section 2(1)(a) of the PFA Act and is injurious to health or

likely to cause disease. It was observed that even where the suspended matter is alleged to be attributable to micro-organisms or chemical constituents, the burden squarely lies upon the prosecution to prove, by cogent evidence, that such constituents were likely to cause disease. In the absence of definite opinion of the Public Analyst regarding the nature of the suspended matter and its harmful effect and when the analytical data otherwise conformed to the prescribed standards, the conviction could not be sustained. Similar view was taken by this Court in ***Amrit Lal v. the State of Punjab, CRR-996-1983, decided on 04.04.1986*** and ***N. S. Jain v. State of Punjab, 1987 (1) FAC 127***.

10. The petitioner has also raised an argument that the article (turmeric powder) was not made homogeneous before the samples were drawn and, therefore, the sample did not truly represent the entire stock. Consequently, the Public Analyst's report based on such a non-homogeneous sample cannot be safely relied upon. This argument also finds strength from several judicial pronouncements. In this regard, reliance can be placed upon ***Om Parkash v. State of Haryana, 2009(9) RCR (Criminal) 53***, wherein this Court held that unless the food article is properly stirred and made homogeneous, the sample drawn cannot be treated as a representative sample of the entire bulk. It was held that mere assertion by the Food Inspector that the contents were mixed, is not sufficient and the prosecution must demonstrate that the article was stirred in a proper manner, such as clockwise and anti-clockwise stirring, so that the contents at the bottom are thoroughly mixed with the upper layer. While arriving at this conclusion, this Court had relied upon and followed the consistent line of precedents including ***Lekh Raj v. U.T. Chandigarh, 1990(1) RCR (Criminal) 479***, ***State of Punjab v. Balwant Singh, 1992(2) RCR (Criminal) 57***, ***Prem v.***

State of Haryana, 1996(1) RCR (Criminal) 54, Sawaran Singh v. State of Haryana, 1997(3) RCR (Criminal) 546, Devi Dayal v. State of Haryana, 1999(3) RCR (Criminal) 16, and State of Punjab v. Paramjit Singh, 1992 XIX CrL. L.T. 234, wherein it was uniformly held that failure to make the sample homogeneous strikes at the root of the prosecution case and entitles the accused to the benefit of doubt.

11. The petitioner has further argued that the samples were drawn and were wrapped in thick khaki paper, which was not according to the rules and on this very ground alone, the prosecution of the petitioner under the impugned complaint stands vitiated. This argument of the petitioner also deserves appreciation. In *Pritam Singh v. Union Territory, Chandigarh, 1986(2) RCR (Criminal) 322*, this Court held that dispatch of turmeric powder samples in paper packets is contrary to the mandatory scheme of the Prevention of Food Adulteration Rules and such non-compliance vitiates the prosecution at its inception. It was observed that turmeric powder, being hygroscopic in nature, is prone to loss of contents and absorption of moisture when packed in paper, thereby rendering the sample unsafe for dependable analysis. While quashing the proceedings, this Court had relied upon the earlier coordinate Bench judgments in *Messrs Garg Masala Company, Samana v. State of Punjab, 1985(1) RCR (Criminal) 221* and *Super Trading Agency, Gokal Road, Ludhiana v. State of Punjab, 1985(2) RCR (Criminal) 283*, wherein it was consistently held that failure to pack and seal food samples in the prescribed manner strikes at the root of the prosecution and destroys the evidentiary value of the Public Analyst's report, entitling the accused to the benefit of doubt. Similar view has been taken by this Court in *Nasib Chand, Partner of M/s Super Trading Agency v. State of Punjab, 1985 (2) RCR (Criminal) 283, Nasib Chand v. State of Punjab,*

1986 (1) FAC 310, Sham Lal v. State of Punjab, 1986 (2) RCR (Criminal) 558, Suresh Chander v. State of Punjab, 1986 (2) RCR (Criminal) 585, State of Haryana v. Gordhan Dass, 1988 (2) FAC 224 and M/s Hindustan Lever Limited v. State of Punjab, CRM-M-13770-2008, decided on 07.11.2011.

12. On applying the ratio of law laid down in the aforecited judgments, this Court is of the considered view that the continuation of the impugned complaint would not serve the ends of justice. The complaint, on the face of it, suffers from multiple material lacunae which go to the very root of the prosecution case. The Public Analyst's report, which forms the sole basis of the prosecution, does not quantify the alleged admixture of rice starch in the turmeric powder nor does it record any opinion that such admixture was injurious to health or rendered the article unfit for human consumption. In the absence of such foundational particulars, mere presence of a foreign substance, by itself, cannot be held sufficient to constitute an offence under the PFA Act.

13. Further, there is a conspicuous absence of any allegation or material in the complaint to show that the article of food was made homogeneous before the samples were drawn. The requirement of homogeneity is essential to ensure that the sample represents the entire stock and, in the absence thereof, the very reliability and representative character of the sample becomes doubtful. A prosecution founded upon a non-homogeneous and unrepresentative sample cannot be sustained in law. It is also an admitted fact that the samples of turmeric powder were wrapped in thick khaki paper instead of being packed in clean, dry and airtight containers as mandatorily required under the rules. Such a mode of packing renders the samples vulnerable to loss of contents, absorption of moisture

and possible tampering, thereby destroying the sanctity of the sampling process and eroding the evidentiary value of the analyst’s report. Hence, if a cumulative view is taken, these defects are not mere procedural irregularities but substantive lapses which strike at the foundation of the prosecution case. Therefore, in the considered opinion of this Court, permitting the criminal proceedings to continue despite such inherent infirmities would amount to subjecting the petitioner to an unwarranted and vexatious trial and would constitute an abuse of the process of the Court. Consequently, this Court finds it to be a fit case for exercise of inherent powers under Section 482 of the Code for quashing of the impugned complaint and all subsequent proceedings arising therefrom. Accordingly, the present petition is allowed. The impugned complaint as well as all the subsequent proceedings arising therefrom are hereby quashed.

13.02.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No