



213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-569-2009 (O&M)
Date of Decision:23.03.2026

Balwan

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Ms. Gurneet Sagoo, Advocate (Amicus Curiae)
for the petitioner.

Mr. Rajiv Sidhu, Sr. DAG, Haryana.

N.S.Shekhawat J. (Oral)

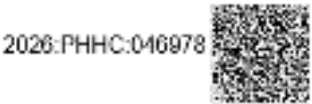
1. The petitioner has filed the present revision petition against the impugned judgment dated 05.02.2009 passed by the Court of Additional Sessions Judge, Rohtak and the judgment of conviction dated 27.07.2006 and order of sentence dated 29.07.2006 passed by the Court of Chief Judicial Magistrate, Rohtak, whereby, the petitioner was convicted for the commission of offence punishable under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 and was sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,500/-.

2. The brief facts of the case are that on 31.07.1997 at 8:30 a.m., the petitioner was intercepted by K.K. Sharma, Govt. Food Inspector (for short 'the GFI') along with Dr. G.S. Chajjad, District Malaria Officer at Gohana Road. The petitioner was found in possession of 15 kgs. of mixed milk for public sale contained in a drum. The GFI after serving a notice in writing in Form- VI prescribed under the Prevention of Food Adulteration Rules, 1955 (for short 'the Rules') demanded a sample from petitioner and after mixing the milk,



purchased 750 mlts. of milk by paying a sum of Rs.9/-. The sample, so, purchased was divided into three equal parts and was put in three dry, clean and empty bottles. Two drops of 40% formalin per 25 mlts. were added as preservative in each bottle. The bottles were stoppered at their neck, sealed with the seal of Medical officer, labeled and wrapped in strong thick paper and the ends of paper were pasted with gum. A paper slip bearing code No. RT/CS/F11/F129 and signature of the Local Health Authority-cum-Civil Surgeon, Rohtak was pasted on each bottle from top to bottom. Each bottle was secured by means of strong twine and sealed with the seals of Medical Officer and the GFI at the spot. Thumb impression of petitioner was obtained in such a manner that both the paper slip and the wrapper on each sealed bottle, carry a part of his thumb impression. One sealed bottle along with a memorandum in Form VII was sent to the Public Analyst, Haryana, Chandigarh for analysis in a sealed packet through railway parcel. Remaining two sample bottles along with two copies of memo in Form-VII were deposited with the Local Health Authority on 01.08.1997, vide receipt No. 3-4 in another sealed pocket. A copy of the memo in Form-VII and specimen of seals used to seal the sample and the parcel box were sent to the Public Analyst, Haryana, Chandigarh by registered post, vide Post office Receipt No. 2258 dated 01.8.1997. As the report of the Public Analyst, Haryana, Chandigarh that the sample did not conform to the standards laid down in the Act and the Rules, therefore, the prosecution was launched against the petitioner.

3. After pre-charge evidence, the petitioner was ordered to be charge-sheeted under Section 16(1)(a)(i) read with Section 7 of Prevention of Food Adulteration Act. However, he pleaded not guilty and claimed trial.



4. After charge evidence, the prosecution examined three witnesses. The prosecution examined K.K. Sharma, Government Food Inspector as PW-1, who supported the contents of the complaint in the present case. He produced Ex.PA notice given by him to the petitioner. Ex.PB receipt regarding purchase of milk. Ex.PC spot memo. Ex.PD receipt regarding sending Form VII to Public Analyst Haryana, Chandigarh through registered post. Ex.PE report of Public Analyst, Ex.PF complaint and Ex.PF/1 report of CFL. The prosecution further examined Dr. C.S.Chajjad as PW-2, who also supported the testimony of PW1, K.K. Sharma, GFI. The prosecution further examined PW-3, Rohtash Kumar, Clerk of Local Health Authority, who deposed that as per the record, two sealed bottles containing samples were received in the office and one sample was sent to the Public Analyst for analysis. He proved warning memo (Ex.PW3/A), postal receipt (Ex.PW3/B) and acknowledgment (Ex.PW3/C). In the present case, the report of Public Analyst was received, which was exhibited as Ex.PF and the test analysis was as follows:-

1.	Milk Fat	6.4%
2.	Milk Solids not Fat	7%
3.	Test for the presence starch, added urea test- and NAOII	Negative
4.	Sucrose test and foreign fat test	Negative

It was further opined that milk fat was 0% deficient and milk solid not fat was 18% deficient of the minimum prescribed standard. I am of the opinion that the sample contained 7% of milk solid not fat against the minimum specified limit of 8.5% laid down of the below No.A.11.01.11 of PFA Rules 1955.



5. Apart from that, another sample of milk was sent for test to CFL Laboratory, Pune on the application of the petitioner and the following result was found:-

1.	Total Milk Solid %	14.0
2.	Milk Fat %	6.5
3.	Milk solids no fat %	7.5
4.	Test for starch/sucrose Bicarbonate	Negative
5.	Test for cellulose/glucose	Negative
6.	Test for formalin	Positive

It is clear from this report that the sample did not conform to the standards of mixed milk as per PFA Rules 1955. It is quite evidence from the comparison of the above two reports, the milk sample had clearly passed the test of its composition with regard to milk fat as it is recorded and prescribed in Appendix-B as mentioned in Item No.11.01.11 as per which minimum percentage of milk fat is required to be 4.5% and milk solid not fat is required to 8.5% with regard to Milk fat.

6. As per the above stated reports, the milk solid not fats were found to be 7 and 7.5% respectively. In these reports, whereas the minimum prescribed standard is 8.5% and it was clear that milk solid not fat had fallen short of the prescribed standards.

7. After closure of the evidence of prosecution, the statement of the accused under Section 313 Cr.P.C. was recorded and he denied all the incriminating evidence put to him. However, he stated that he was falsely involved in the present case and was innocent. The petitioner chose not to lead any defence evidence.



8. Learned State counsel contended that the petitioner does not deserve any concession regarding sentence and the present revision petition be dismissed.

9. I have heard learned counsel for the parties and perused the record carefully.

10. The prosecution in the present case had examined K.K. Sharma, Government Food Inspector as PW1, who had supported the averments made in the complaint. His testimony was duly supported by the statement of PW2, Dr. C.S. Chajjard. Apart from that, the prosecution had examined PW3, Rohtash Kumar, Clerk of Local Health Authority, who also supported the case of the prosecution with regard to taking of samples and referring the same to Public Analysts and CFL. Thus, the prosecution had led sufficient evidence to prove the charge under Section 16 (1)(a)(i) of Prevention of Food Adulteration Act, 1954 and the judgments of conviction passed by both the Courts are ordered to be upheld. Even otherwise, I have gone through the judgments passed by both the Courts and find no infirmity or illegality in the impugned judgments.

11. Now advertng to the order on quantum of sentence, this Court cannot lose sight of the fact that the petitioner is facing the prosecution in the present case since 06.10.1997 i.e. for the last more than 28 years. Further, the sentence imposed on the petitioner was suspended by this Court on 05.03.2009 and in the last more than 17 years, the petitioner has maintained good conduct. Even otherwise, he has already undergone 01 month of actual custody, out of total sentence of one year. Thus, keeping in view the mitigating circumstances, this Court is of the considered opinion that a lenient view can be taken while imposing sentence on the petitioner. The sentence imposed on the petitioner is



reduced to the period already undergone by him. However, the sentence of fine as imposed upon the petitioner is increased from Rs.1,500/- to Rs.1,00,000/-, which shall be deposited by him before the concerned Chief Judicial Magistrate, within a period of 04 weeks from the date of receipt of certified copy of this case. It is made clear that in case, the enhanced fine is not deposited within the aforesaid period of four weeks as per this order, the present order reducing the sentence of the petitioner to the period already undergone, shall automatically stand vacated and in that eventuality, the petitioner will have to undergo the actual sentence of 01 year apart from the sentence of default imposed by the concerned Chief Judicial Magistrate.

12. With the above modifications, the present revision petition is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the petitioner is reduced to the period already undergone by him and the sentence of fine as imposed upon the petitioner is increased from Rs.1,500/- to Rs. 1,00,000/-, which shall be deposited by him before the concerned Chief Judicial Magistrate, within a period of 04 weeks from the date of receipt of certified copy of this order.

13. Pending applications, if any, stand disposed of, accordingly.

14. I record my appreciation for Amicus, who has rendered able to assistance to the Court and fee of Amicus Curiae is assessed Rs.20,000/-, which shall be paid by High Court Legal Services Authority, as per rules and practices.

(N.S.SHEKHAWAT)
JUDGE

23.03.2026
hemlata

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