



230 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3032-2012
Date of Decision:24.03.2026

Suresh Kumar ...Petitioner

Vs.

State of Punjab ...Respondent

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

Present: Mr. J.S Bhinder, Advocate
for the petitioner.

Mr. Bhanu Partap Singh, Addl.A.G., Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned judgment dated 07.09.2012 passed by the Court of Sessions Judge, Bathinda and the impugned judgment of conviction and order of sentence dated 06.09.2011, passed by the Court of Additional Chief Judicial Magistrate, Bathinda, whereby the petitioner was ordered to be convicted for the offence punishable under Section 16(1) (a)(i) of the Prevention of Food Adulteration Act, 1954 and was sentenced as under:-

Under Section 16(1) (a)(i) of the Prevention of Food Adulteration Act	R.I for a period of one year and to pay a fine of Rs.1000, in default of payment of fine, to further undergo RI for a period of 01 month.
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2. Dr.Ashok Monga, Food Inspector filed a complaint under section 16(1) (a) (i) of the Prevention of Food Adulteration Act against petitioner Suresh Kumar on the allegations that on 23.04.2009 at about 10.00 A.M., he inspected the premises of Sheenu Tea Stall situated in street No.5, Partap Nagar, Bathinda and found the petitioner sitting on the counter of the said shop.



He tried to join independent witness from the spot, but no body agreed. On inspection of the shop, he found that 30 bottles of fanta each containing 200 ml. of carbonated sweetened water were kept in the refrigerator for sale of human consumption. Complainant after disclosing his identity demanded the sample of Fanta from the accused after serving a notice upon him on Form VI, prescribed under the Act. Complainant purchased six bottles each containing 200 ml of Fanta from the petitioner against payment of Rs.60/- for analysis. The purchased sample was divided into three equal parts of two bottles each. Each part was labeled and wrapped in a strong thick paper. The ends of the paper were folded and pasted with gum. Then a slip signed by local Health Authority Bathinda bearing No.24780 Code No. NB 058-09 was wrapped on the wrapper on each packet in such a way that it went from bottom to top. The ends of the slip were pasted with gum and then each packet was secured by means of a thick strong twine and was sealed according to the Rules with seal bearing impression of the MAK. Signatures of the petitioner were obtained on each packet in such a manner that these were partly on the wrapper and partly on the slip. Complainant also signed each packet. One sealed packet of sample was sent to the Public Analyst, Punjab Chandigarh in a sealed cover along with copy of Form VII bearing seal impression MAK, used to seal the sample and a copy of Form-VII bearing seal to impression MAK was also sent the public analyst in a separate sealed cover through Shri Darshan Singh of the office of Civil Surgeon, Bathinda. Remaining two parts of the sample along with three copies of Form VII were deposited in the office of local Health Authority, Bathinda. The spot memo was prepared. Report of the Public Analyst was received through the Local Health Authority, Bathinda and it is admissible under Section



13 (5) of the Act, indicating that the expired sample has been taken. Therefore, Suresh Kumar, petitioner had committed an offence under section 7 of the Prevention of Food Adulteration Act, punishable under Section 16(1) (a) (i). Hence, the complaint was filed on 16.11.2009.

3. After pre-charge evidence, the petitioner was ordered to be charge-sheeted for the commission of offence punishable under Section 16(1) (a) (i) of the Prevention of Food Alteration Act, 1954.

4. After charge, the petitioner was allowed to cross-examine all the witnesses examined by the complainant in pre-charge evidence, but no other evidence was led by the complainant.

5. After the closure of the evidence, the statement of petitioner was recorded under Section 313 Cr.P.C and all the incriminating evidence was put to him, to which he pleaded that he had been falsely involved in the present case. No defence evidence was led by the petitioner in his defence.

6. At the very outset, learned counsel appearing on behalf of the petitioner submits that he does not wish to challenge the impugned judgments of conviction and some leniency may be shown by this Court, while awarding the sentence to him. Even though, learned counsel for the petitioners has not challenged the judgment of conviction, still this Court has considered the case on merits.

7. I have heard the learned counsel for the parties and with their able assistance, I have gone through the trial Court record carefully

8. In the present case, Dr. Ashok Monga appeared as CW-1, who supported the case of the prosecution, as mentioned in the complaint. Darshan Singh CW-2 also corroborated the testimony of CW-1, Dr. Ashok Kumar



Monga. Baljit Singh, Despatch Clerk PW-3 had proved the despatch of the letter dated 19.11.2009, vide which the intimation was sent to the accused and he proved the letter Ex.CW-3/A and postal receipt Ex.CW-3/B.

9. All the three prosecution witnesses were cross-examined at length, but nothing favourable could be extracted from their cross-examination. Even, the petitioner could not show that there was any enmity or ill will on the part of the prosecution witnesses. Thus, both the Courts have rightly held guilty the petitioner for commission of the offence punishable under Section 16(1) (a)(i) of the Prevention of Food Adulteration Act, 1954.

10. Now, adverting to the order of sentence in the present case, this Court cannot lose sight of the fact that the petitioner is facing the agony of trial/appeal since 16.11.2009 i.e. for the last more than 16 years. He is a small tea vendor and is the sole bread earner of the family. Still further, the sentence imposed on the petitioner was ordered to be suspended by this Court on 06.11.2012 and for the last more than 14 years, he had maintained good conduct and was not involved in any other case. Moreover, he has already undergone more than 02 months and 02 days of actual custody out of total sentence of one year. Consequently, the sentence imposed on petitioner is reduced to the period already undergone by him. However, the amount of fine imposed on him is enhanced to Rs.10,000/- which shall be deposited by him with the concerned Chief Judicial Magistrate within a period of four weeks from the date of receipt of certified copy of this order.

11. In case, the enhanced amount of fine Rs.10,000/- is not deposited by him as ordered, the present revision petition shall be deemed to be dismissed.



12. With the above modifications, the present revision petition is partly allowed and the impugned judgment of convictions are upheld, whereas, the sentence imposed on the petitioner is reduced to the period already undergone by him and the amount of fine imposed on him is enhanced to Rs.10,000/- which shall be deposited by him with the concerned Chief Judicial Magistrate within a period of four weeks from the date of receipt of certified copy of this order.

24.03.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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