



sentence dated 18.01.2010, passed by the Court of Chief Judicial Magistrate, Gurgaon, whereby, the petitioners were ordered to be convicted for the offence punishable under Section 16(1) (a) (i) of Prevention of Food Adulteration Act,1954 and were sentenced as under:-

16 (1) (a) (i) of Prevention of Food Adulteration Act, 1954	R.I for a period of six months and to pay a fine of Rs.,1000, in default of payment of fine, to further undergo SI for a period of one month.
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2. The brief facts of the present case are that respondent filed a complaint for commission of offence under Section 7 of the Prevention of Food Adulteration Act, 1954 punishable under Section 16(1)(a)(i) of the said Act, on the allegations that on 25.11.2001, at around 7.00 AM, Tejpal was apprehended at Anaj Mandi, Khandsa Road, Gurgaon, in possession of about 200 liters fresh pasteurized Full Cream Milk (Gopal Jee) 500 ml poly pack for public sale, contained in carets, in TATA 407 registration No. HR-46A-0870 sought a sample of (fresh pasteurized Full Cream Milk (Gopal Jee) by giving him notice in writing on Form-VI, Prevention of Food Adulteration Rules, 1955. Two poly pack each 500 ml was purchased after dipping into Tribunal water and milk was made homogenous clockwise and anti-clockwise, against payment of Rs. 16/- and separated into three equal parts in three dry and clean empty bottles, two drops of 40% formalin per 25 mls was added in each bottle, as preservative, bottles were stoppered tightly and sealed with seal of Medical Officer, leveled and wrapped in strong thick paper, pasted with gum and paper slip bearing code No. GN-DH/FI-1/FI-2/1488 and signatures of Local Health Authority was pasted on each bottle from bottom to top and sealed with seals of Medical



Officers and Food Inspector, thumb impression of Tejpal were obtained, in such a manner that both the paper slips and the wrapper on each sealed bottle carry a part of his thumb impression, one sealed bottle alongwith memorandum in form VII, was sent to Public Analyst Haryana, Chandigarh, in a sealed packet through railway parcel No. U-141943 dated 26.11.2001 and two other sealed bottles of sample alongwith two copies of memo in form VII were deposited with Local health Authority, Gurgaon on 26.11.2001 vide No. GFI/2001/74 in a sealed packet, a copy of memorandum in Form VII and an empty poly pack pouch and specimen impression of seals used to seal the sample and box were sent to Public Analyst Haryana, Chandigarh, by registered post receipt No. RLB4134 dated 26.11.2001. The certificate of Public Analyst Haryana, Chandigarh, shows the sample contains 8.3% of milk solids, not fat against the minimum specified limit of 9.0% laid down for full cream milk in the table item No. A.11.01.11 of the PFA Rules, 1955 (2). Batch number is also not printed/mentioned on the label of the sample as required under clause (e) of Rules 32 of PFA Rules, 1955.

3. After the pre-charge evidence, the petitioners were served a notice under Section 16(1) (a) (i) of Prevention of Food Adulteration Act, 1954 to which the petitioners stated that they were innocent and claimed to be tried.

4. In after charge evidence, the respondent/complainant Pratihvi Singh himself examined as PW-1, Jaivir Singh L.H.A, Clerk as PW-2 and Dr. Vishesh as PW-3 and they had tendered certain documents.

5. Thereafter, the statements of petitioners were recorded under Section 313 Cr.P.C and they denied the charge against them and claimed to be tried by the competent Court of law.



6. In their defence evidence, no defence evidence was led by the petitioners.

7. In the present case, the prosecution examined PW-1 Prithvi Singh, Food Inspector, who had supported the contents of the complaint in the present case. PW-3 Dr. Vishesh Kumar had corroborated the statement of PW-1 Prithvi Singh and admitted his signatures on notice Ex.PA and Form VII was also prepared by him.

8. PW2 Shri Jaibir Singh MPSW has brought the record of LHA Office, and testified that on receipt of Analyst report, a copy by a forwarding letter Ex.PW2/A, through registered A.D., was sent vide receipt Ex.PW2/B and second sent to M/s Gulshan Dairy Farm vide receipt Ex.PW2/C and copy of registered post receipt Ex.PW2/D and he identified the signature on the forwarding letter since he worked in the Office.

The report of Public Analyst, Ex.PF as under:

"the sample contains 8.3% of milk solids not fat against the minimum specified limits of 9°Yo laid down for full crème milk in the table item no. A.11.01.11 of the PFA Rules, 1995. Second batch number is also not printed/mentioned on the label of the sample as required under Clause E of Rule 32 of the P.F.A, Rules, 1995".

9. At the very outset, learned counsel appearing on behalf of the petitioners 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 them. Even though, learned counsel for the petitioners had not challenged the judgment of convictions, still this Court has considered the case on merits.



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

11. From the above referred evidence, it was apparent that as per the report of Public Analyst, the sample contained 8.3% of milk solids, however, as per item No.A.11.01.11, the minimum prescribed limit of milk solid was 9%. Apart from that, the batch number was not mentioned on the milk bottle and the milk solids were not there in the milk as per the P.E.A Rules and there was clear cut violation of Rule 32 of PFA Rules. Apart from that, there was also violation of Rule 22 of PFA Rules in the present case. Still further, as per the statement of PW-1, Prithvi Singh, the bottle was taken by the Public Analyst as per the standard procedure in the present case. Even otherwise, I have gone through the judgments passed by the Court below and find that there is no illegality, perversity or infirmity in the impugned judgments passed by the Courts below and the impugned judgments of conviction are ordered to be upheld.

12. Now, adverting to the order of sentence in the present case, this Court cannot lost sight of the fact that both the petitioners are facing the agony of trial/appeal since 15.02.2010 i.e for the last more than 16 years. Even, they are first offenders and were never involved in any criminal activity. Apart from that, the sentence imposed on Tej Pal (petitioner in CRR-686-2012) was ordered to be suspended by this Court on 05.03.2012 and the sentence imposed on Mohd. Amir, (petitioner in CRR-1224-2012) was ordered to be suspended by this Court on 02.05.2012. Even as per the Custody Certificate, Tejpal (petitioner in CRR-686-2012) has already undergone more than 25 days of actual custody, whereas, Mohd. Amir (petitioner in CRR-1224-2012) has



already undergone more than 02 months and 18 days of actual custody. Consequently, the sentence imposed on petitioners is reduced to the period already undergone by them. However, the amount of fine is enhanced to Rs.10,000/- to Tej Pal (petitioner in CRR-686-2012) and Rs.25,000/- to Mohd. Amir, (petitioner in CRR-1224-2012), which shall be deposited by them with the concerned Chief Judicial Magistrate within a period of six weeks from the date of receipt of certified copy of this order.

13. In case, the total amount of fine Rs.35,000/- is not deposited by them as ordered, the revision petitions shall be deemed to be dismissed.

14. With the above modifications, the present revision petition(s) are partly allowed and the impugned judgment of convictions are upheld, whereas, the sentence imposed on the petitioners is reduced to the period already undergone by them and the amount of fine is enhanced to Rs.10,000/- to Tej Pal (petitioner in CRR-686-2012) and Rs.25,000/- to Mohd. Amir, (petitioner in CRR-1224-2012), which shall be deposited by them with the concerned Chief Judicial Magistrate within a period of six weeks from the date of receipt of certified copy of this order.

15. Case property, if any, be dealt with, as per rules.

16. The Trial Court record be sent back.

(N.S.SHEKHAWAT)

JUDGE

23.04.2026

hitesh

Whether speaking/reasoned

Whether reportable

`: Yes/No

: Yes/No