
(1999) 03 P&H CK 0101
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 566 of 1988

Harbans Lal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 05-03-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 401
Prevention of Food Adulteration Act, 1954 — Section 16(1)

Citation : (1999) 122 PLR 446

Hon'ble Judges : A.S. Garg, J

Bench : Single Bench

Advocate : R.S. Cheema and K.D.S. Hooda, for the Appellant; N.K. Sanghi, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

A.S. Garg, J.—A sample of chilly powder worth 450 grams was taken by the Government Food Inspector A.N. Gupta, on 31.1.1984 from the petitioner, who was running a Dhaba in the area of Jind, after a notice Ex.PA was served upon the petitioner and the price of the chilly was paid vide receipt Ex.PB. After the formalities of completing the sample memo Ex.PC, one of the sample was sent to the Public Analyst, who vide report Ex.PD opined that the sample of chilly contained prohibited coal tar dye as well as it contained total ash 8.5% and ash insoluble in dil. Hcl. 1.72% against the maximum prescribed standards of 9.0% and 1.3% respectively and grit 1.6%. This led to the prosecution of the petitioner u/s 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954.

2. The petitioner took up the plea that he is not a manufacturer of the chilly powder. Rather he used the same in preparation of food which he sold to various customers on his Dhaba. Hence, according to him, this chilly powder from which the sample was taken was not for sale. However the learned Chief Judicial Magistrate, Jind, convicted the petitioner u/s 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 and sentenced him to undergo

rigorous imprisonment for one year and to pay a fine of Rs. 1,000/-. In default of payment of fine he was ordered to undergo further rigorous imprisonment for three months. His conviction and sentence was maintained in appeal by the learned Sessions Judge, Jind. He has filed the present revision petition.

3. The main argument taken up by the learned counsel has been that right from the beginning the plea of the petitioner has been that he was not at all the person who manufactured or kept the chilly powder in question for sale. During the course of trial, it was never asserted that the chilly powder kept by the petitioner was directly for sale. It has been the admitted case of the complainant-Food Inspector that the petitioner was running a Dhaba. He has mentioned that the sample was taken from the Dhaba. In such a situation one cannot conceive all that this chilly powder was actually for sale. The version of the petitioner appears to be truthful on the face of it. The object of the Prevention of Food Adulteration Act is to catch hold of the real offenders who adulterate and not the persons who purchase the articles of food which are used in preparation of meals etc. In case such persons are convicted, it may result into miscarriage of justice. Therefore, the petitioner deserves the benefit of doubt and he is acquitted of the charge framed against him. The revision petition is accepted. The fine, if paid, be refunded.