
(1984) 05 P&H CK 0039
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 939 of 1983

Joginder Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 23-05-1984

Acts Referred:

Citation : (1984) 05 P&H CK 0039

Hon'ble Judges : S.S.Dewan, J

Advocate : Mr Mahesh Grover, H.S. Gill, Advocates for appearing Parties

Judgement

S.S. Dewan, J.

1. This revision petition has been directed against the judgment of the Additional Sessions Judge Kurukshetra, affirming the conviction and sentence of the petitioner under section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short `the Act") for storage of adulterated chilly powder for sale.
2. Moti Ram Food Inspector accompanied by Dr. G. P. Saluja and Gopal Singh went to the canteen of the petitioner situated in the Engineering College, Kurukshetra, where the petitioner was having 500 gms. of chillypowder in a tin for sale. The Food Inspector purchased 330 gms. of chillypowder from him for analysis. One or the samples sent to the Public Analyst was found to be adulterated as it contained eight living meat worms and three living weevils and also contained ash insoluble in dil. Hel. sick 1.68 per cent against the maximum prescribed standard of 13 per cent and 1.10 per cent grit, and therefore, the same was declared unfit for human consumption.
3. The case against the petitioner rests primarily on the unimpeached testimony of the Food Inspector and Dr. G.P. Saluja. The petitioner denied the prosecution allegations and pleaded that the chillypowder was meant for the use of his servants. Gopal Singh was examined by him in defence.
4. The only point pressed upon me on behalf of the petitioner is that it is not

disputed that the petitioner was running a canteen in the Regional Engineering College, Kurukshetra and that the chillypowder is never sold in the canteen and the same is used only for the preparation of articles like Samosas etc. He has also referred me to the statements of the witness who have categorically stated that the petitioner was running a canteen where tea and Samosas etc. were sold. This fact is further confirmed from the testimony of Gopal Singh examined by the defence. The learned counsel has also referred me to a Supreme Court decision in *Municipal Corporation of Delhi V. Laxmi Narain Tandon etc.* A.I.R. 1976 Supreme Court 62 which it has been held that the expression "store" appearing in Section 7 of the Act means "storing for sale" and the storing of an adulterated article of food for purposes other than for sale would not constitute an offence under section 16(1) (a) of the Act. On the other hand the learned counsel for the State has argued that the petitioner had stored 500 grammes of chillypowder only for sale and not for any other purpose. After hearing the learned counsel for the parties at length, I am of the considered view that there is substance in the contentions of the learned counsel for the petitioner. If the view propounded by the learned counsel for the State is allowed to prevail then an innocent person, who does not deal in a particular commodity on being forced to sell a part of it to the Food Inspector, would also be liable to suffer penal consequences under the Act. Such a consequence was never within the contemplation of the Legislature. It is well known that in the canteen attached to the colleges only Samosas and such like articles are sold. Where a person does not store a particular commodity for sale in normal course of his business and which he does not voluntarily sell, it will not be open to the Food Inspector to insist that the said person should sell a part of that commodity to him for the purposes of the Act. Even if such a commodity is found to be substandard the penal consequences of the Act shall not visit him. In this view I am fortified by the Supreme Court decision in *Luxmi Narain Tandon's case* (Supra). The view taken by the Courts below is untenable.

5. For these reasons the petition is allowed and the orders passed by the Courts below are set aside. Fine, if paid, shall be refunded to the petitioner.