
(1963) 08 P&H CK 0027
In the Punjab And Haryana At Chandigarh

Mehar Chand Pohlo Ram and Another	APPELLANT
Vs	
The State	RESPONDENT

Date of Decision : 26-08-1963

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 10, 16, 7

Citation : (1964) CriLJ 606

Hon'ble Judges : I.D. Dua, J

Bench : Single Bench

Judgement

I.D. Dua, J.—This revision is directed against the order of the learned Sessions Judge;, Jullundur confirming the-order of the learned Additional District Magistrate con" vlcting the petitioners Under Sections 7/16, Prevention of Food Adulteration Act, and sentencing Mehar Chand to a fine of Rs. 500/- and Wazir Chand to a fine of Rs. 200/-} in case of default both to undergo rigorous imprisonment for three months. According to the prosecution case of 20-6-1981 at about 9 in the morning Food Inspector Gartdharb Singh" along with Ram Singh and Gian Singh went to the shop of Mehar Chand accusedetitioner in Basti Ouzan, Jullundur. Wazir Chand accused-petitioner was at that time present at the spot and was selling ice-cream-on behalf of Maihar Chand who was actually running an ice-cream factory in an adjoining building, Wazir Chand, it Is not disputed, was an employee of Mehar Chand. About 10 seers of ice-cream was lying in plastic cups is an ice box. The Food Inspector after disclosing his Ideitivity to Wazir Chand gave him the requisite notice and. purchased 12 cups of Ice-cream and mixed them under a pot. The usual formalities were then gone into and the sample taken was found] to be adulterated.

2. On behalf of the prosecution three witnesses were; examined. Bahadur Singh P.W. 1 is only a formal witness proving Exhibit P.A., a copy of the Municipal resolution authorizing initiation of the prosecution. Food Inspector Gandharb Singh appeared as P.W. 2 and Gian Singh appeared as P.W. 3. The Courts below believed the prosecution evidence and convicted the two petitioners as already

mentioned.

3. On revision before me Shri R. L. Aggarwal learned Counsel for the petitioners has argued the case with force and ability and has said all that could possibly be said in favour of the accused persons. To begin with the counsel has submitted that the provisions of Section 10(7) of the Prevention of Food Adulteration Act have: not been complied with. This Sub-section is stated to be mandatory and, therefore, non-compliance with it has vitiated the trial. Reference has in support of this contention been made to The State Vs. Sadhu Singh, where this Sub-section came up for consideration before Shamsher Bahadur and Gurdev Singh JJ.

It Is true that this provision was described by the learned Judges to be mandatory but It was also observed that this provision merely prescribes a procedure of taking samples of the articles suspected to be adulterated and it would be unreasonable to hold that any non-compliance with it however minor it may be would render the prosecution based upon such taking of samples illegal. I have, therefore, no hesitation in repelling this contention. The counsel then drew my attention to some of the discrepancies but those discrepancies are, in my opinion, discrepancies of truth and not of concoction or falsehood. P. W. 3 has been described by the counsel to be a person under the influence of Food Inspector and it has been stressed that this witness should not have been believed. I am, however, unable to hold that this witness or even the Food Inspector had any motive to falsely implicate the accused persons. This contention is also without merit.

4. The counsel then emphasised that what was sold was not ice-cream and, therefore, the approach to the question of the commodity sold being adulterated is wrong. This plea Is difficult to sustain on revision because this I is essentially a question of fact. Besides, It is clear and thsre Is ample evidence in support of it that Mehar Chand accused runs an ice factory in Basti Guzan and sold the ice-cream In an adjoining shop through Wazir Chand. The counsel's contention Is that ice-cream could not possibly be sold at one anna per cup which was the position in the casa In hand. This argument suffers from a basic Infirmary because if this contention were to prevail then excessive adulteration would always afford the guilty party an easy escape from conviction. This can hardly be the scheme of the law. It has been urged that what was solar was be candy but I am afraid this cannot be substantiated on the existing record.

5. The "counsel next placed reliance on Rule 22 of the Prevention of Food Adulteration Rules which prescribes the quantity of sample of food to be sent to the Public Analyst Director for analysis and it has been contended that in the case In hand instead of 8 ounces only 4 ounces were sent. Here again, I am unable to hold that on; account of this irregularity if at all it is established on which I express no opinion - the conviction can be successfully challenged.

6. Finally, an appeal was made on the question of sentence, The sentence imposed, In my opinion, already suffers from a tendency towards leniency. It is a

matter of common knowledge- - and Courts would be justified in taking judicial notice of the fact - that the evil of adulteration of food articles has spread its net so wide that it is posing a serious threat to the health of the whole society. The Parliament too has considered it fit and proper in public interest to amend the law by enhancing penalties for offences against the law of prevention of food adulteration. It is undoubtedly a matter of grave concern to the whole society and is indeed mortifying to observe that unadulterated¹ food stuffs are so extremely difficult for the common man to obtain in the open market. The situation has assumed such a serious magnitude that offences of the type before me must, in the Interest of the society, call for deterrent sentences.

7. For the foregoing reasons this revision fails and is hereby dismissed.