
(1984) 01 P&H CK 0072
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1832 of 1982

Naval Kishore

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 12-01-1984

Acts Referred:

Citation : (1984) 01 P&H CK 0072

Hon'ble Judges : K.P.S.Sandhu, J

Advocate : Harinder Singh, R.K. Garg, Harish Kumar, Advocates for appearing Parties

Judgement

K.P.S. Sandhu, J. (Oral)

1. The petitioner was tried, convicted and sentenced to six months `rigorous imprisonment and a fine of Rs. 1,000/, in default six months" rigorous imprisonment by the Chief Judicial Magistrate, Bhiwani. The appeal was carried to the Additional Sessions Judge, Bhiwani, where it substantially failed, as the sentence of imprisonment was reduced to three months from six months. The petitioner has come up in revision.

2. The petition was admitted on 17th December, 1982. Since then, the petitioner is on bail.

3. The prosecution case is that the petitioner has a kariana shop at Bhiwani. On 29th October, 1979 Food Inspector purchased 600 grams. of khandsari against payment. Sample of the same was taken and despatched to public Analyst who vide his report Exhibit PD found that there was 0.695% rice in it. Mr. Harinder Singh Giani, learned counsel for the petitioner has contended in the foremost that the petitioner is a grocer and possibility of some pieces of rice falling into the khandsari in routine, could not be ruled out. He has contended that the khandsari is not included in Appendix `B" of the prevention of Food Adulteration Rules, 1955 and thus no standard is prescribed for the same. He has placed reliance on a Division Bench authority of this Court reported as Naresh Kumar v.

The State of Punjab, 1982 (II) FAC 30, wherein it has been held that once no standard is prescribed of an article of food under the Act and the Rules and the same is not injurious to health, it cannot be considered to be adulterated in terms of any of the subclauses (e) to (i) or (m) of clause (ia) of Section 2. In view of the fact that there is no standard prescribed for the article and this negligible percentage of rice found in the same was not injurious to health, it cannot be said that the khandsari was adulterated.

4. Consequently, this petition is allowed and the conviction and sentence of the petitioner is set aside. Fine, if paid, shall be refunded to him.