
(1993) 08 P&H CK 0088
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1265 of 1986

Prem Chand

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 06-08-1993

Acts Referred:

Citation : (1993) 3 RCR(Criminal) 617

Hon'ble Judges : Harmohinder Kaur Sandhu, J

Advocate : S.S. Gill, D.S. Bali, R.C. Dimri, Advocates for appearing Parties

Judgement

Harmohinder Kaur Sandhu, J.

1. Prem Chand petitioner was tried and convicted for an offence under Section 7 read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act (hereinafter referred to as the Act) by Chief Judicial Magistrate, Ambala and was sentenced to undergo Rigorous Imprisonment for six months and to pay fine of Rs. 1000/ vide judgment dated 3.6.1986. The appeal against his conviction and sentence was dismissed by Sessions Judge Ambala and he has thus filed the present Revision Petition assailing his conviction and sentence.

2. The prosecution case against the petitioner in brief, is that on 8.4.80 Shri I.N. Sehgal, Government Food Inspector accompanied by Doctor Vasudev Bansal inspected the shop of the petitioner in village Khatauli and found him in possession of 10 Kilograms of 'bura' sugar for public sale. The Food Inspector purchased 600 grams of bura sugar for analysis. It was divided into three equal parts and was put into three dry and clean bottles. The bottles were sealed according to rules and one sealed bottle was sent to the Public Analyst Haryana, Chandigarh. The Public Analyst reported that the sample was adulterated as it contained Sulphur Dioxide 83.27 PPM. against the maximum prescribed limit of 70 PPM. Thereafter the prosecution was launched against the petitioner which led to his conviction.

3. I have heard the counsel for the parties.

4. It was argued on behalf of the petitioner that as per report of the Public Analyst the only adulteration found in the article in question was that it contained Sulphur Dioxide 83.27 PPM. against the maximum prescribed limit of 70 PPM. The standard of bura was laid down in Rule A. 07.02 of Appendix B to the Prevention of Food Adulteration Rules 1955 but later on amendment was made and this rule was substituted. Before the amendment the standard prescribed for Bura and Khandsari was that the same may contain Sulphur Dioxide in concentration not exceeding 70 parts per million but via amendment of the Rule effected by the Prevention of Food Adulteration (6th amendment) Rules 1987 the earlier standard laid down for bura sugar was substituted by Rule A.07.02.01 which was as follows :

"`Bura sugar" means the fine grain size product made out any kind of sugar. It shall be free from dirt, filth, iron filings and added colouring matter. Extraneous matter shall not exceed 0.1 per cent by weight. It shall also conform to the following standard, namely :

(a), Sucrose, Not less than 90.0 per cent by weight.

(b), Ash insoluble in dilute hydro chloric acid, Not more than 0.7 percent by weight.

Sulphur Dioxide, shall not exceed 150 parts per million."

5. It was urged that by the present Rules Bura sugar cannot be considered as adulterated if Sulphur Dioxide found in it does not exceed 150 parts per million. In the instant case Sulphur Dioxide was found only 83.27 PPM. The petitioner had thus not committed any offence. He further contended that notification substituting a new standard in place of old should be given retrospective effect. In support of his contention he relied upon the case of *Sunder Lal v. Municipal Corporation of Delhi*, 1974 Prevention of Food Adulteration Cases 21. In this case a new rule was substituted prescribing another standard of compounded Hing than laid down in the earlier rule and according to the new standard the sample did not fall below the standard. It was held that notification which substituted a new standard in place of old must be given a retrospective operation and the result was that in that case the article of which sample was taken was not found adulterated. The petitioner was acquitted on that ground.

6. In the present case also according to the substituted rule bura sugar of which sample was taken did not fall below the new standard and the petitioner is entitled to the benefit of the substituted rule and is entitled to acquittal on this short ground. I, therefore, allow this Revision Petition set aside the conviction and sentence of the petitioner and acquit him.