
(1989) 05 P&H CK 0076

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 241 of 1986

Ramesh Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 16-05-1989

Acts Referred:

Citation : (1989) 2 AICLR 115 : (1989) 2 RCR(Criminal) 183

Hon'ble Judges : Harbans Singh Rai, J

Advocate : G.S. Punia, Advocates for appearing Parties

Judgement

Harbans Singh Rai, J.

1. Ramesh Kumar, petitioner, was convicted by Sh. H.P. Handa, Chief Judicial Magistrate Patiala vide order dated 22nd November, 1984, under Section 16(1)(a) (i) of the Prevention of Food Adulteration Act, and sentenced thereunder to one year's rigorous imprisonment with a fine of Rs. 1,000/, or in default to further undergo rigorous imprisonment for three months. Appeal filed by him was dismissed by Additional Sessions Judge, Patiala vide his order dated 20th February, 1986. Feeling aggrieved, he has filed this revision.

2. The prosecution case is that on 29th June, 1981, Gurdial Singh, Food Inspector, along with Dr. P.C. Narula, Assistant Civil Surgeon, Patiala, went to the premises of the petitioner at Model Town Market, Patiala, and found the petitioner in possession of 20 kgs. of gur lying with him in a bag for purposes of sale. A sample was purchased by the Food Inspector and sent to Public Analyst Punjab who reported that it had adulteration.

2. I have heard Mr. G.S. Punia, learned Counsel for the petitioner. It is contended that charge in the present case has been framed against the petitioner on the basis of the report of the Public Analyst which has been superseded by the report of Director, Central Food Laboratory Gazhiabad. In the opinion of the Director, Central Food Laboratory, the sample was not adulterated, and so, the charge has been improperly framed.

3. I have considered the contention of Mr. Punia. The report of the Director, Central Food Laboratory, Ghaziabad reads as under :

"The sample does not conform to the standard of Gur or Jaggery laid down in clause A. 07.05 of PFA Rules (1955) in that :

(i) total sugars expressed as invert sugar is slightly less than the minimum prescribed limit. The variation in the observed value and the prescribed value, however, comes within the tolerance limit of experimental variation.

(ii) the sample showed presence of two rodent excreta pellets."

This report was not tendered into evidence nor considered by any of the courts below. So, no finding was given as to whether the presence of two rodent excreta pellets, as per this report, will amount to adulteration or not.

4. The petitioner has been facing trial for the last about eight year and it is debateable as to what extent the seized sample is adulterated. In somewhat similar circumstances, it was held by their Lordships of the Supreme Court in Bhraham Dass v. State of Himachal Pradesh, AIR 1988 SC 1789 that it was not proper that the accused must complete the whole sentence. Their Lordships observed :

"Coming to the question of sentence, we find that the appellant had been acquitted by the trial Court and the High Court while reversing the judgment of acquittal made by the appellate Judge has not made clear reference to clause (f). The occurrence took place about more than 8 years back. Records show that the appellant has already suffered a part of the imprisonment. We do not find any useful purpose would be served in sending the appellant to jail at this point of time for undergoing the remaining period of the sentence, though ordinarily in an antisocial offence punishable under the Prevention of Food Adulteration Act the Court should take strict view of such matter."

Accordingly, while maintaining the conviction, the sentence is reduced to he one already undergone. The revision is disposed of in these terms.