
(2013) 09 P&H CK 0339

In the Punjab And Haryana At Chandigarh

Case No : CRM No. M-33261 of 2010 (O and M)

Sahil Bansal and Another

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 09-09-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Prevention of Food Adulteration Act, 1954 — Section 13(3), 16, 7

Citation : (2013) 09 P&H CK 0339

Hon'ble Judges : Sabina, J

Bench : Single Bench

Advocate : Vivek Salathia, for the Appellant; Deep Singh, AAG, Punjab, for the Respondent

Final Decision : Disposed Off

Judgement

Sabina, J.—Petitioners have filed this petition u/s 482 of the Code of Criminal Procedure, 1973 seeking quashing of the Criminal Complaint No. 85 dated 05.02.2009 (Annexure P-1) titled State Vs. Sahil Bansal and Another under Sections 7 /16 of the Prevention of Food Adulteration Act, 1954 (in short "Act") and Rule 50 of the Prevention of Food Adulteration Rules, 1955 (hereinafter referred as "Rules") and all the subsequent proceedings arising therefrom including summoning order dated 06.02.2009 (Annexure P-2). Learned counsel for the petitioner has submitted that as per the report of the Central Food Laboratory, Mysore, the second sample of Sohan Halwa which was sent for analysis confirmed to the general standard prescribed for the said food article under the Act. Learned counsel has further submitted that as per Section 13(3) of the Act, the certificate issued by the Central Food Laboratory supersedes the report given by the Public Analyst under sub-section 1.

2. Learned State Counsel, on the other hand, has submitted that although, the report submitted by the Central Food Laboratory, Mysore had come in favour of the petitioner, but he was liable to be proceeded qua violation of Rule 50 of the

Rules.

3. In the present case, premises of the petitioner were inspected on 25.10.2008 by the Government Food Inspector. Petitioner was found in possession of 100 kilograms of Sohan Halwa meant for sale to public. Samples of Sohan Halwa were taken. As per the report of the Public Analyst, the sample sent for analysis was found adulterated. Vide order dated 06.02.2009, Trial Court ordered the summoning of the petitioner to face trial qua commission of offence punishable u/s 16 of the Act. On an application moved by the petitioner, the second sample was sent for analysis to the Central Food Laboratory. As per the report submitted by the Central Food Laboratory, Mysore (Annexure P-3), it was opined that the sample confirmed to the general standard prescribed for an article of food under the Act and Rules. Thus, admittedly, the second report had come in favour of the petitioner.

4. Section 13(3) of the Act reads as under:-

The certificate issued by the Director of the Central Food Laboratory [under sub-section (2B)] shall supersede the report given by the public analyst under sub-section (1).

5. Thus, as per the above provision, the report submitted by the Central Food Laboratory supersedes the report submitted by the Public Analyst. Hence, the petitioner cannot be said to have committed any offence punishable u/s 16 of the Act.

6. However, complaint was also filed against the petitioner for violation of Rule 50 of the Rules. Although, no specific order was passed qua summoning of the petitioner for violation of Rule 50 of the Rules but as the petitioner has already surrendered before the Trial Court in pursuance to the summoning order dated 06.02.2009, it would be appropriate to direct the Trial Court to consider as to whether petitioner was liable to be proceeded qua violation under Rule 50 of the Rules.

7. Accordingly, criminal proceedings initiated against the petitioner u/s 16 of the Act are set aside. However, the Trial Court shall consider as to whether petitioner is liable to be proceeded qua violation of Rule 50 of the Rules or not. Petition stands disposed of accordingly.