
(1980) 03 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 872 of 1977

Sant Ram and another

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 11-03-1980

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1)(a)(ii)

Citation : (1980) 03 P&H CK 0024

Hon'ble Judges : S.S. Sandhawalia, J

Bench : Single Bench

Advocate : Harinder Singh for M/s R.K. Garg and B. Raj Sharma, for the Appellant; Bochinar Singh, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sandhawalia, C.J.—The two Petitioners were found guilty under sections 1(1)(a)(i) and 1(1)(a)(ii) of the Prevention of Food Adulteration Act, 1954 and were sentenced to rigorous imprisonment for nine months and a fine of Rs. 1,000/- each on the first count and rigorous imprisonment for three months and a fine of Rs. 500/- each on the second count. On appeal, learned Additional Sessions Judge, Amritsar, upheld the conviction and sentenced them u/s 16(1)(a)(i), but accepted the appeal on the second charge and set aside the conviction and sentence recorded u/s 16(1)(a)(ii) of the Prevention of Food Adulteration Act, 1954. The Petitioners have come up by way of this revision.

2. On July 27, 1974 at about 5 P. M Dr. B R. Chawla purchased a sample of admittedly green Palampur tea for analysis from Sant Lal Petitioner from their premises near Kesri Bagh, Amritsar. In the godown there were about 100 bags of green Palampur tea. One of the bags was opened and after making its contents homogeneous by mixing the leaves thoroughly, 375 grams of tea leaves, as sample out of that, against payment of Rs. 1/- was secured and the receipt exhibit PD issued.

3. The sample was divided into three parts in accordance with the provisions of the statute and the Rules. It is the case that Sant Lal Petitioner disclosed that Ram Sarup was a partner with him in the business. Subsequent analysis by the Public Analyst revealed that the sample contained ingredients which were below the standard prescribed by item A.14 of the Prevention of Food Adulteration Rules, 1955 (hereinafter called the Rules")

4. Mr. Harinder Singh appearing for the Petitioners has raised a solitary meaningful challenge to the conviction recorded against the Petitioners it is pointed out that admittedly the tea in the possession of the Petitioners was green Palampur tea grown in Kangra District. At the material time of the taking of the sample on July 27, 1974, the standard generally prescribed for the tea was spelled out in item A. 14 in Appendix "B" of the Rules. However, before even the trial could conclude on September 21(sic), 1 76, an amendment was introduced in the relevant provisions by a notification No. GSR 850 dated June 25, 1975 issued under the Act. Thereby item A 14 was amended to lay down inter alia that "Tea means tea other than Kangra tea". This apart an altogether new item was inserted by the same notification in the Appendix as A. 14 01, which first defined "Kangra tea" as "tea derived exclusively from the leaves, buds and tender stems of plan"s of the Camellia sinensis or Camellia tea grown in Kangra and Mandi valleys of Himachal Pradesh". For this tea, specifications were prescribed which admittedly are different from tea other than Kangra tea which continued to be governed by item A 14. Learned Counsel contends both on principle and on the basis of authority that the standard appli cable to the tea recovered from the Petitioners has to conform to the freshly prescribed standard vide item A. 1 0(sic) and admittedly the analysis having not been conducted with regard to this standard, there is on the present record nothing to show that the sample recovered is adulsarated(sic)

5. There is obvious merit in the contention raised on behalf of the Petitioners. There appears to be both principle and precedent to support the stand taken on their behalf that the tea grown in the Kangra and Mandi vallets(sic) of Himachal Pradesh is materially different from that grown at the other and of the country in Assam or perhaps in the southern Nilgiris. This has been judicially noticed earlier in state v. Jagat Ram Crl. A.649 of 1957. Crl Appeal No. 649(sic) of 1957 decided on September 4, 1958 by the Division Bench of this Court in the following terms:-

--The tea was grown in some garden in Palampur and was purchased by the accused in Amritsar. There is on the file a letter from the Director of wealth(sic) to the various Health Officers directing them not to prosecute persons seiling Palarnpur tea because the standards of this tea have not yet been laid down. There is no doubt that this was only a departmental direction but it does show that the authorities were conscious of the somewhat different constitution of Palampar tea as compared to the Assam tea. It is said that the Palampur tea is naturally somewhat inferior to the Asssam tea. The standards by which the sample recovered from the Respondents was judged are the standard . laid down

for Assam tea. No standards for Palampur tea have yet been laid down, although the matter is under consideration as appears from the letter to which I have referred above. It may be that Palampur tea gives less colour and less of the standard ingredients than Assam---

6. It appears that the process of prescribing a standard for Kangra tea has been rather a lardy(sic) one and it was not till as late on June 25, 1975 that separate standards have been prescribed(sic) for Kangra tea. It calls for pointed notice and bears repetition that there is no manner of dispute that the tea in the possession of the Petitioners was grown in Palampur which admittedly is in the Kangra District.

7. Long before the trial of the Petitioners concluded, the standard for Kangra tea had been separately specified and incorporated in appendix "B" of the Prevention of Food Adulteration Rules, 1955. However, it is the admitted position that the sample taken from the Petitioners was tested on the anvil of the standard prescribed by item A. 14 01 only and not under the newly inserted item A. 14.01.

8. The legal issue that inevitably arises is whether the standard applicable to Kangra tea at the time of the Petitioners' conviction was to be covered by item A. 14 or by item A. 14.01.

9. It appears to be wasteful to examine the matter on principle because the same appears to be wholly covered by two Division Bench judgments of the Delhi High Court reported in *Sunder Lal v. Municipal Corporation at Delhi* 1974 P.F.A. C 19. and, *Municipal Corporation of Delhi v. Mai Ram alias Bhaya Ram* 1974 P.F.A. C. 21. In *Sunder Lal's* case (Supra), after examining the matter on principle and authorities, the Bench has concluded as follows:-

Considered in the light of the above decisions must give effect to standard of compounded Hing as it stands today. Notification No. GSR 38, dated 9th March, 1966 which substituted a new standard in place of old, must be given a retrospective operation. The result is that in case it conforms to the present standard then it cannot be said that it was adulterated

The aforesaid view has been affirmed and followed in the *Municipal Corporation of Delhi's* case (supra).

10. Mr. Bachittar Singh, the learned Counsel for the Respondents has very fairly conceded that he can neither cite any judgment to the contrary nor on principle is in a position to challenge the correctness of the aforesaid view. Therefore in accordance with the Delhi judgments, it would inevitably follow that the sample of tea recovered from the Petitioners, had to be adjudged on the basis of the freshly inserted standards prescribed by item A. 14 01 and this having been admittedly not done there is nothing on the present record to show that the sample taken from the Petitioners' possession was adulterated.

11. Inevitably, the revision succeeds. The convictions and sentences of the Petitioners are hereby set aside and they are acquitted.

R.M.S. Petition allowed