

(1986) 04 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 39 of 1985

Sat Pal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 15-04-1986

Acts Referred:

Citation : (1986) 04 P&H CK 0042

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

Advocate : I.S. Balhara, V.K. Jain, Advocates for appearing Parties

Judgement

S.S. Dewan, J.

1. Satpal petitioner was brought to trial for the offence under S. 16(1)(a)(i) of the Prevention of Food Adulteration Act (for short, the Act) before the Additional Chief Judicial Magistrate, Hissar, and having been found guilty thereunder, was sentenced to six months rigorous imprisonment and a fine of Rs. 1,000/-. On appeal, the learned Sessions Judge, Hissar, set aside the judgment of conviction passed by the trial Magistrate holding that the Additional Chief Judicial Magistrate, Hissar, had not framed the charge under the correct provisions of law and remanded the case to him with a direction (that ACJM) should frame a correct charge against the petitioner and thereafter decide the case afresh in accordance with law.

2. It is unnecessary to recount the facts. It is not disputed by the learned counsel for the petitioner that instead of framing the charge under S. 7 read with S. 16(1)(a)(i) of the Act, the trial Magistrate by mistake framed the charge under S. 7 of the Essential Commodities Act. This wrong framing of the charge has prejudiced the petitioner. Subsection (2) of the S. 464 of the Code of Criminal Procedure provides that if the Court of appeal, confirmation or revision is of the opinion that a failure of justice has, in fact, been occasioned, it may in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit. In the circumstances, the learned Sessions judge was justified in remanding the case to the trial Magistrate

with a direction to try it according to law after reframing the charge. No ground for interference with the order of the learned Sessions Judge has been made out.

3. In the result, there is no merit in the revision petition and the same is accordingly dismissed. The petitioner through counsel are directed to appear in the trial Court on May 9, 1986.