
(1997) 07 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 7 of 1997

Sat Pal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 31-07-1997

Acts Referred:

Citation : (1998) 1 RCR(Criminal) 75

Hon'ble Judges : S.C.Malte, J

Advocate : Surinder Lamba, Gorakh Nath, Advocates for appearing Parties

Judgement

S.C. Malte, J. (Oral)

1. The petitioner was prosecuted and convicted under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act (hereinafter referred to as the Act).

The allegations were that zeera sweetened carbonated water sold by the petitioner did not contain sugar at all, whereas it should contain at least 5% of sugar. The sample in question was taken by the Food Inspector on 20.5.1990. It was sent to the Public Analyst on 26.5.90 by despatching it by Railways. The sample was received in the office of the Public Analyst on 11.6.90. After getting the report of the Public Analyst, an intimation, as per Section 13(2) of the Act was sent to the accused. The complaint was then duly lodged. The charge for the offence mentioned above was framed against the accused. The accused pleaded not guilty to the charge. The trial court considered the evidence on record and convicted the accused and sentenced him to rigorous imprisonment for one year and a fine of Rs. 1,500/ in default, simple imprisonment for three months. Against that judgment dated 20.12.95, the petitioner preferred an appeal before the Sessions Court. The Addl. Sessions Judge Hisar, by judgment dated 20.12.1996, dismissed the appeal. The petitioner, therefore, filed this revision.

The counsel for the petitioner raised various points pertaining to the compliance of the provisions of the Act. However, ultimately he confined his arguments to the quantum of sentence only. He submitted that the alleged violation of the

provisions under the Act pertains only to absence of sugar in the article which was being sold as Zeera sweetened carbonated water. He submitted that mere absence of sugar though attributable for the loss of sugar during search would certainly not be injurious to health and, therefore, the accused deserved compassionate approach. It was further submitted that for the incident dated 20.5.90, the accused had already undergone the agony of prosecution for the last seven years. He brought my attention to the fact that the trial in the lower court, thus, consumed almost five years. It was, therefore, submitted that in view of the rulings of various courts in which in similar circumstances a lenient view was taken and the sentence was reduced below the minimum prescribed under the Act, may be considered and the benefit of such approach may also be extended to the present case.

2. The learned Asstt. Advocate General, on the other hand, submitted that the law has prescribed the minimum punishment. Therefore, there is no room for reduction of the sentence further.

The counsel for the petitioner has placed reliance on the judgment of this court in *Chander Bhan v. State of Haryana*, 1996(1) Recent CR 125 . In that case, the learned Single Bench of this Court considered the argument that the Act provided the minimum sentence. His Lordship was of the view that though the law has prescribed the minimum sentence, the High Court would be in a position to exercise its powers under the Constitution, particularly Article 21 which contemplates that the accused would be entitled to speedy trial. Article 21 provides that no person shall be deprived of his right or personal liberty except according to the procedure prescribed by law. The scope of this Article has been considered to cover the case of the right to have a speedy trial. A speedy trial is said to be the essential ingredient of reasonable, fair and just procedure guaranteed under the Constitution. In this case, though the complaint was filed on 20.7.90, the decision, however, could be had on 20.12.95. Thus, the accused had to face a hanging sword of the prosecution and conviction for almost five years. Thereafter he filed an appeal in the Sessions Court and had to wait for another one year till the appeal was dismissed on 20.12.96. Therefore, he filed the present revision. It is, therefore, obvious that during the last seven years he is going through the ordeal of the litigation and was under agony and pressure of the conviction and sentence. In my opinion, therefore, this punishment coupled with the period of imprisonment already undergone by him is enough to meet the ends of justice in case where the alleged adulteration of the food article pertains to deficiency of sugar, and in no manner was it injurious to the health of human being. His Lordship while dealing with the case of *Chander Bhan* (supra) made the following observations and I have no reason to express any contrary view :

"Now it cannot be disputed that the right to speedy and expeditious trial is one of the most valuable and cherished right guaranteed under the Constitution. Fundamental rights were not a teasing illusions to be mocked at. These were

meant to be enforced and made a reality. Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the social interest also, does not make it any less the right of the accused. Right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. This is how, the court shall understand this right and have gone to the extent of quashing the prosecution after such inordinate delay in concluding the trial of an accused keeping in view the facts and circumstances of the case. Keeping a person in suspended animation for 10 years or more without any case at all cannot be with the spirit of the procedure established by law. It is correct that although minimum sentence to be imposed upon a convict is prescribed by the statute, yet keeping in view the provisions of Article 21 of the Constitution of India and the interpretation thereof qua the right of an accused to a speedy trial, judicial compassion can play a role and a convict can be compensated for the mental agony which he undergoes on account of protracted trial due to the fault of the prosecution by this Court in the exercise of its extraordinary jurisdiction."

3. In the set of factual position in this case, therefore, I am of the view that the ends of justice would be met by ordering that the accused will suffer period of imprisonment already undergone plus an amount of fine of Rs. 1,500/, in default simple imprisonment for a period of three months as imposed by the trial court. Hence ordered accordingly.

Counsel makes a statement that the accused has already paid the fine.