
(2003) 01 P&H CK 0125

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 252-DBA of 1990

State of Haryana through Govt.Food Inspector

APPELLANT

Vs

Sant Lal

RESPONDENT

Date of Decision : 22-01-2003

Acts Referred:

Citation : (2003) 3 RCR(Criminal) 592

Hon'ble Judges : Jasbir Singh, J

Advocate : Mr. Sanjeev Sheokand, Advocate. Mr. J.S. Bedi, Advocate., Advocates for appearing Parties

Judgement

Jasbir Singh, J.

1. State of Haryana has filed this appeal against judgment dated 16.12.1989, vide which respondent was acquitted of the charge framed against him.

2. As per records, respondent Sant Lal was put to face trial for commission of offence punishable under Section 16(1A) read with Section 7 of Prevention of Food Adulteration Act, 1954 (in short "the Act"). It is allegation against the respondent that on 26.7.1985, after issuance of proper notice Ex.PA, 660 gms. of maida/refined wheat flour was purchased by Inder Nath Sehgal, Government Food Inspector. Rs. 1.80 was paid to the respondent against receipt Ex. PB. Article purchased was put in three dry and clean bottles in equal three parts. Memo was prepared at the spot, which was duly attested by the respondent and the witnesses. After completing necessary formalities, three bottles were wrapped in a thick paper. Then seals were put with distinct seals and signatures of respondents/accused were also obtained on the sealed bottles. One sealed bottled was sent to Public Analyst, Haryana at Chandigarh alongwith a memorandum in Form VII, in a sealed box, though railway parcel. Other two bottles of the samples were deposited with the local health authorities in a sealed box alongwith Form VII. Copy of memorandum and specimen signatures of the seals used on sample bottled were sent to the Public Analyst separately through a registered post. On analysis made by the Public Analyst, it was reported that

sample (maida) contained 12 living meal worms. Respondent was consequently challaned to face trial for commission of above mentioned offence. Prosecution, then led its evidence. On completion of the same, statement of the respondent was recorded, who denied the allegations levelled against him. Trial court then after appreciation of evidence, oral as well as documentary, on record, came to a conclusion that the prosecution has failed to establish its case beyond reasonable doubt and consequently, respondent was acquitted of the charges framed against him. Hence, this appeal.

3. Shri Sanjeev Sheokand, AAG Haryana appearing on behalf of the appellant State, vehemently contended that trial Court has misread the evidence. He further stated that acquittal is not justified. By referring to the statement made by the Public Analyst in the witness box, he stated that the sample drawn was found to be adulterated and was not fit for human consumption. He also argued that the court below has taken a very technical view of the entire matter, benefit of doubt has wrongly been given to respondent. He prayed that the judgment having been passed contrary to the evidence on record, be set aside and appeal to allowed.

4. This prayer has vehemently been opposed by Shri J.S. Bedi, Advocate appearing for the respondent. He stated that as per evidence on record, no offence is made out against the respondent under the provisions of Section 16(1A) of the Act. He further stated that the report of Public Analyst has rightly been ignored by the court below. Even attempt on the part of the prosecution to fill up the lacuna, by examining the Public Analyst, has rightly been discarded by the trial court.

5. Having heard counsel for the parties, this court is of the opinion that present appeal deserves to be dismissed. As is apparent from the records and as also discussed by the trial court, Public Analyst's report Ex.PD is the main basis of the charges levelled against the respondent. Vide that report, it was opined that the sample sent for examination, contained 12 living meal worms. No opinion was given as to whether sample was other worm or insect infested or was unfit for human consumption. By taking note of above mentioned report, trial court rightly came to a conclusion that the requirements of Clause 'f' of Section 2(ia) were not established. By noticing above mentioned provisions, trial court justifiably opined that the prosecution has failed to establish charge against the respondent. Opinion expressed by the court below is justified because of the fact that the Public Analyst has not given any opinion as to whether the sample was worm or insect infested or was otherwise unfit for human consumption.

6. No doubt, prosecution made an attempt to fill up the lacuna, above mentioned, by examining the Public Analyst in the witness box. He has stated that the meal worm is an insect which is present in eatables like cereas and species. He also tried to improve upon his report by saying that due to the presence of meal worms, maida was not fit for human consumption. However, this witness failed to give any satisfactory reply as to why this fact was omitted

and not mentioned in analysing report Ex.PD. By taking note of discrepancies in the statement of Public Analyst, his testimony was rightly discarded by the trial court. Court below has also taken into consideration a fact that when sample was drawn on August 26, it was a month of monsoon rains with high concentration of humidity in the atmosphere. Court below further observed that possibility of moisture being there in the bottles cannot be ruled out and since sample was examined by the Public Analyst on 5th day after it was sent to him, possibility of meal worms developing during the transit period, could not be ruled out.

7. Counsel appearing for the appellant has failed to indicate any legal infirmity in the order passed, on the basis of which, any interference can be made by this Court, in the impugned order. No error of law apparent on record has been brought to the notice of this court, as such, this appeal fails and is dismissed.