

(2011) 01 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 1050 MA of 2010

State of Punjab

APPELLANT

Vs

Hotel Royal Palce and Others

RESPONDENT

Date of Decision : 24-01-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Prevention of Food Adulteration Act, 1954 — Section 16, 7
Prevention of Food Adulteration Rules, 1955 — Rule 50

Citation : (2012) 1 Crimes 587

Hon'ble Judges : Raian Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajan Gupta, J.—This is an appeal preferred by State of Punjab against the order dated 9th May, 2009, passed by Addl. Chief Judicial Magistrate, Jalandhar, whereby respondents were acquitted of offence u/s 7/16 of Prevention of Food Adulteration Act, 1954 and Rule 50 of P.F.A. Rules, 1955. Brief factual, background of the case is that on 17th September, 2001. the Food Inspector inspected the premises of Hotel Royal Palace. Sodal Road, 33, Kailash Nagar. Jalandhar City, where 2 Kgs of Paneer (cheese) was seized from the said hotel. Samples thereof were taken and sent for analysis after dividing them into three equal parts. After receipt of the report, the instant complaint was filed before the court. The prosecution led as many as four witnesses in support of its case. Statements of the accused were recorded u/s 313 Cr.P.C. wherein they pleaded innocence. The trial court after analyzing the evidence, acquitted the respondents of the offence as alleged against them, mainly on the ground that PW1 Dr. Rajiv Sharma never stated, that Paneer was meant for sale to public. The complaint itself was silent on this issue. PW1, when he stepped into the witness-box, also did not make any statement in these terms. This apart, there was variation in the contents of milk fat in the two samples, while the sample was taken on 17th September, 2001, the complaint was filed five months

thereafter i.e. on 20th February, 2002 and second sample was sent for analysis on 11th September, 2003 i.e. after a gap of two years from taking the sample, whereas the milk product can be preserved only for six months. The report of Public Analyst shows that contents of fat as 4.45% and the C.F.L. report shows the same as 37.58%. The variation in the fat contents is due to the fact that it decreases due to bacterial growth with the passage of time, so the sample was not taken properly and it cannot be said that identical representative samples were put to both the analysts.

2. In this view of the matter, the accused were acquitted of the charges levelled against them.

3. Learned State counsel has not been able to point out any defect with the impugned judgment. In view of the fact that PW1 never stated before the court that the seized Paneer was meant for sale to public and also the report of Public Analyst showing the fat contents to be 40.45% whereas report of C.F.L. shows that fat contents were 47.85% and there is variation of contents of milk fat in both the samples, I am of the considered view that the trial court rightly arrived at the conclusion that the accused deserves to be acquitted. Under the circumstances, this application for leave to appeal fails and is hereby dismissed.