
(1987) 04 P&H CK 0035
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 451 of 1985

Sujan Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 17-04-1987

Acts Referred:

Citation : (1987) 2 AICLR 723 : (1987) 2 CurLJ 559 : (1987) 2 PLR 276 :
(1987) 2 RCR(Criminal) 501 : (1987) 2 RCR(Criminal) 198

Hon'ble Judges : K.S.Bhalla, J

Advocate : K.D. Singh, H.S. Sawhney, Advocates for appearing Parties

Judgement

K.S. Bhalla, J.

1. Petitioner Sujan Singh was convicted under section 16 (1)(a)(i) of the Prevention of Food Adulteration Act by the trial Magistrate on 26th November, 1934, and a sentence of rigorous imprisonment for six months with a fine of Rs. 1000/ was imposed upon him. The petitioner preferred appeal against this decision which was dismissed by the Additional Sessions Judge, Faridabad. on 15th March, 1985. The instant revision has been filed by Sujan Singh against the said judgment of the Additional Sessions Judge, Faridabad.

2. There is no dispute that a sample of separated milk was taken by the Government Food Inspector after observing usual formalities and the same was found to be adulterated on the basis of substandard. milk solids not fat being deficient by 3.45 per cent. The complaint mentions the concerned food article as separated milk and similar mention has been made in form VInotice, Exhibit P.A. receipt. Exhibit P.B. and spot memo, Exhibit P.C., so much so that the report of the Public Analyst, Exhibit P.D., also mentions that a sample of `separated milk" was analysed. Separated milk is not covered by item A. 11.01.11 of Appendix `B" of Prevention of Food Adulteration Rules, 1955. The said item provides standards for different classes and designations of milk, such as, buffalo milk, cow milk, goat or sheep milk, mixed milk, standardised milk, recombined milk, toned milk, double toned milk and skimmed milk. It does not contain the term

separated milk. It seems to be the common case that the Rules do not prescribe any separate standard for separated milk. That being so, it is plain that under the existing provisions there is no yardstick by which to judge the purity or otherwise of the product taken from the petitioner and in the absence of prescribed standard no conviction is possible, seems to be manifest both on principle and precedent. S. S. Sandhawalia, C. J. so held, in *Lekh Raj v. The State*, 1980 (II) All India Prevention of Food Adulteration Cases, 166 while dealing with food article 'fruit cream', for which no standard was prescribed.

3. The article in question was declared adulterated by applying the yardstick prescribed for skimmed milk. 'Separated milk' and 'skimmed milk' cannot possibly be treated as identical terms. 'Skim' is to remove floating matter from the surface, and that is why, it connotes removal of fat content of the milk, which is lighter as compared to the other contents and on that account often floats on the surface. 'Separated', however, denotes separating of a content, may or may not be lighter one. It does not denote almost complete removal of the fat or any other content. Perhaps, that is why, the milk fat content was found to be 1.2 per cent, that is, almost $2\frac{1}{2}$ times of the prescribed standard of fat in skimmed milk, which is 0.5 per cent. Separated milk by partial separation of whatever content be measured with the prescribed it may be, therefore, cannot possibly standard of skimmed milk. There are so many such forms of milk, for example, recombined milk, toned milk, double toned milk etc. All these being different from separated milk, in the absence of any prescribed and separate standard, cannot possibly be treated identical with any of the prescribed forms. Under the circumstances, conviction of the petitioner cannot be sustained. because in the absence of any prescribed standard for the food article purchased from him, it cannot be treated to be adulterated on the ground of being substandard.

4. As a result of what is stated above, this revision is allowed, conviction and sentence of petitioner Sujan Singh are set aside and he is acquitted of the charge against him. The amount of fine 199. if realised, be refunded.