(2025) 12 SHI CK 0003

Himachal Pradesh HC

Case No: Criminal Revision No. 855 Of 2024

Daljeet Singh	APPELLANT
Vs	
State Of Himachal Pradesh	RESPONDENT

Date of Decision: Dec. 16, 2025

Acts Referred:

- Prevention Of Food Adulteration Rules, 1955- Rule 50
- Prevention Of Food Adulteration Act, 1954-Section 7(v), 16(1)(c), 16(1)(a)(ii)
- Code Of Criminal Procedure, 1973-Section 313, 342, 397, 398, 399, 400, 401, 482
- Code Of Criminal Procedure, 1898-Section 313(1), 313(2), 313(3), 313(4), 342(1)
- Indian Penal Code, 1860-Section 34, 302, 326, 436
- Evidence Act, 1872-Section 114
- Prevention Of Food Adulteration Act, 1954-Section 7, 10(1), 16(1), 16(1)(c)

Hon'ble Judges: Rakesh Kainthla, J

Bench: Single Bench

Advocate: N.S. Chandel, Sidharth, Shwetima Dogra, Lokender Kutlehria

Final Decision: Dismissed

Judgement

Rakesh Kainthla, J

1. The present revision is directed against the judgment dated 21.01.2015 passed by learned Additional Sessions Judge-II, Kangra at D aramshala, District Kangra, H.P. (learned Appellate Court), vide which the judgment of conviction dated 25.09.2013 and order of sentence dated 28.09.2013 passed by learned Additional Chief Judicial Magistrate, Dehra, District Kangra, H.P. (learned Trial Court) were upheld. (Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present revision are that the complainant, Food Inspector, filed a complaint before the learned Trial Court for the

commission of an offence punishable under Section 16(1)(a)(ii) of the Prevention of Food Adulteration Act (PFA) and Rules framed thereunder. It was asserted that the complainant was appointed as a Food Inspector for District Kangra. He inspected the shop of the accused Daljeet Singh, on 19.08.2010 at abo t 3:30 p.m., which was running in the name and style f M/s Mukesh Confectionery, village and Post Office Dhaliara, Tehsil Dehra, District Kangra, H.P. The accused had kept many food articles like biscuits, toffees and cold drinks, etc. in his s op for sale to the general public. The complainant demanded the food license for the year 2009-2010 and asked him for a sample of the biscuit. The accused failed to show the Food License and refused to provide a sample of the biscuit. He abused the complainant and pushed him out of the shop. He also threatened to beat the complainant in case he did not leave the shop. The complainant prepared a spot memo and asked the accused to sign it. The accused refused to sign it. The complainant obtained signatures of Raghubir Singh and Ashish Raina (PW-3). The complainant filed an application before the Chief Medical Officer (CMO) to seek the written consent to launch the prosecution. The CMO, Kangra, H.P., went through the record and issued the consent (Ext.PW-1/C). Hence, the complaint was filed against the accused for the commission of an offence punishable under Sections 16(1)(a)(ii) read with Section 7(v) of the PFA Act and Rule 50 of the PFA Rules.

3. Learned Trial Cou t found sufficient reasons to summon the accused. When the acc sed appeared, he was charged with the commission of offences punishable under Sections 16(1)(c) and 16(1)(a)(ii) of the PFA Act and Rule 50 of the PFA Rules, to which the accused pleaded not guilty and claimed to be tried.

4. The complainanthexamined three witnesses to prove his case. Manjeet Singh (PW-1) is the complainant. Tej Ram (PW-2) proved the written consent. Ashish Raina (PW-3) is an eyewitness.

5 The accused, in his statement, recoded under Section 313 of Cr.P.C., admitted that the complainant was posted as Food Inspector, he had visited the shop of the accused on 19.08.2010 at about 3:30 p.m. and demanded the Food License. He claimed that he had not refused to show the license to the complainant; rather, he had stated that the license was displayed in the shop and could be seen by the complainant. He also admitted that the complainant had demanded a sample of biscuits. He denied the rest of the complainants case. He told the complainant that he (the accused) was sitting in the place of his son, who had gone to take a meal. He examined Dr S.K. Gautam (DW-1) to pr ve his de ence.

6. Learned Trial Court held hat the accused admitted that the complainant was posted as Food Inspector and he had visited the shop of the accused on 19.08.2010 at around 3:30 p.m. The accused also admitted his presence in the shop and that he had kept the biscuits in the shop. The statement of the complainant was corroborated by Ashish Raina (PW-3). There was nothing in their cross-examination to show that they were making false statements. The sole testimony of the

complainant is sufficient to record the conviction, but in the present case, the statement of the complainant was corroborated by the testimony of Ashish Raina (PW-3), and there was no reason to disbelieve it. The sanction was properly given. The date 18.08.2010 mentioned in the consent letter was a clerical mistake and would not affect the consent. Hence, the learned Trial Court convicted the accused of the commission of an offence punishable under Section 16(1)(c) of the PFA Act and sentenced him to undergo simple imprisonment for six months, pay a fine of ₹1000/- and in default of payment of fine to undergo simple imprisonment for one month for the commission of the aforesaid offence.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal, which was decided by the learned Additional Sessions Judge-II, Kangra at Dharamshala, District Kang a, H.P. (learned Appellate Court). Learned Appellate Court conc rred with the findings recorded by the learned Trial C urt that the complainants version that he had visited the shop of the accused, where the accused had prevented him from taking the sample of biscuits, was proved on record. The accused examined Dr S.K. Gautam (DW-1), who proved that the l censes (Ext.D-1 and Ext. D2) were issued for the years 2009-10 and 2010-11; therefore, the accused had a valid license to sell the food articles. The accused had not only refused to give samples to the complainant but also prevented him from taking samples by issuing threats. He did not sign the spot memo. The plea of the accused that only the owner of the shop could be convicted was not tenable. The clerical error in the consent order will not invalidate it. The learned Trial Court had rightly convicted the accused. The sentence imposed by the learned Trial Court was nothexcessive, requiring any interference from the Appellate Court. Hence, the appeal was dismissed.

8. Feeling aggrieved and dissatisfied with the judgments and order passed by the learned Courts below, the accused has filed the present revision asserting that the learned Courts below erred in appreciating the material placed before them. The complainant failed to prove his identity as a Food Inspector. The memo was required to be prepared, indicating the intention of the Food Inspector to take a sample; however, no such memo was prepared. The complainant had not lodged any F.I.R. regarding the incident, which made his testimony suspect. The license was issued in the name of The petitioners son, and the petitioner was not liable. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard Mr N.S. Chandel, learned Senior Counsel assisted by M/s Sidharth and Shwetima Dogra, learned counsel for the petitioner and Mr Lokender Kutehira, learned Additional Advocate General, for the respondent/State.

10. Mr N.S. Chandel, learned Senior Counsel for the petitioner/accused, submitted that the learned Courts below failed to appreciate the material on record. The recitals in the spot memo (Ex.PW-1/A) made the prosecutions case suspect. Ashish

Raina, was employed in the office of the CMO as a Drugs Inspector. The complainant and the Drug Inspec or used to join each others cases as witnesses. The sanction was not p oper since the complainants date of visit to the shop was wrongly mentioned in it. CMO had not considered that the license was issued in the name of the petitioners son. Therefore, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Lokender Kutlehira, learned Additional Advocate General, for the respondent/State, submitted that the learned Courts below had found the complainants testimony to be reliable. It was duly corroborated by the statement of Ashish Raina. Learned Trial Court had rightly held that the conviction can be recorded based on the sole testimony of the Food Inspector. In the present case, the testimony of the Food Inspector was duly corroborated by the independenthevidence. The learned Courts below had rightly accepted the statements of the complainant and Ashish Raina (PW-3). This Court should not interfere with the concurrent findings of fact recorded by the learned Courts below. Hence, he prayed that the present petition be dismissed.

12. I have given considerable th ught to the submissions made at the bar and have gone through he records carefully.

13. It was laid down by the Honble Supreme Court in Malkeet Singh Gill v. State of Chhattisgarh, (2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786 that a revisional court is not an appellate court and it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207:-

10. Before adverting to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after a detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction like the appellate court, and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure Code (in short CrPC) vests jurisdiction to satisfy itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error which is to be determined on the merits of individual cases. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings.

14. This position was reiterated in State of Gujarat v. DilipsinhKishorsinh Rao, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

14. The power and jurisdicti n the Higher Court under

Section 397 CrPC, which vests the c urt with the power to call for and examine records of an inferior court, is for the purposes of satisfying i self as o the legality and regularities of any proceeding or o der made in a case. The object of this provision is to set ight a patent defect or an error of jurisdiction or law or the perversity which has crept in such proceedings.

15.It would be app site to refer to the judgment of this Court in Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986, where scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)

12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error, and it may not be appropriate for the court to scrutinise the orders, which, upon the face of it, bear a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, ithemerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored, or judicial discretion is exercised arbitrarily or perversely. These are nothexhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injus ice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in the exercise of its revisi nal jurisdiction unless the case substantially falls within the categories aforestated. Even the framing of the charge is a much-advanced stage in the proceedings under CrPC.

15. It was held in Kishan Rao v. Shankargouda, (2018) 8 SCC 165: (2018) 3 SCC (Cri) 544: (2018) 4 SCC (Civ) 37: 2018 SCC OnLine SC 651 that it is impermissible for the High Court to reappreciate the evidence and come to its conclusions in the absence of any perversity. It was observed at page 169:

12. This Court has time and again examined the scope of Sections 397/401 CrPC and the grounds for exercising the revisional jurisdiction by the High Court. In State of Kerala v. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452: 1999 SCC (Cri) 275, while considering the scope of the revisional jurisdiction of the High Court, this Court has laid down the following: (SCC pp. 454-55, para 5)

5. In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting a miscarriage of justice. But the said revisional p wer cannot be equated with the power of an appellate court, nor can it be treated even as a second appellate jurisdiction. Ordina ily, he efore, it would not be appropriate for the High Court to reappreciate the evidence and come to its conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in concluding that the High Courthexceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence.

13. Another judgment which has also been referred to and relied on by the High Court is the judgment of this Court in Sanjaysinh Ramrao Chavanv. Dattatray Gulabrao Phalke, (2015) 3 SCC 123: (2015) 2 SCC (Cri) 19. This Court held that the High Court, in the exercise of revisional jurisdiction, shall not interfere with the order of the Magistrate unless it is perverse or wholly unreasonable or there is non-consideration of any relevant material, the order cannot be set aside merely on the ground that another view is possible. The following has been laid down in para 14: (SCC p. 135)

14. Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Secti ns 397 to 401 CrPC is not to be equa ed wi h that of an appeal. Unless the finding of the cou , whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.

16. This position was reiterated in Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197: (2019) 2 SCC (Cri) 40: (2019) 2 SCC (Civ) 309: 2019 SCC OnLine SC 13, wherein it was observed at page 205:

16. It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to

re-analyse and re-interpret the evidence on record.

17. As held by this Court in Southern Sales & Services v. Sauermilch Design and Handels GmbH, (2008) 14 SCC 457, it is a well-established principle of law that the Revisional Court will not interfere even if a wrong order is passed by a court having jurisdiction, in the absence of a jurisdictional error. The answer to the first question is, therefore, in the negative.

17. This position was reiterated in Sanjabij Tari v. Kishore S. Borcar, 2025 SCC OnLine SC 2069, wherein it was observed:

27. It is well se led hat in exercise of revisional jurisdiction, the High Court does not, in the absence of perversity, upset concurrent factual findings [See: Bir Singh(supra)]. This Court is of the view that it is not for the Revisional Co rt to re-analyse and re-interpret the evidence on record. As held by this Court in Southern Sales & Services v. Sauermilch Design and Handels GMBH, (2008) 14 SCC 457, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong order is passed by a Court having jurisdiction, in the absence of a jurisdictional error.

28. Consequently, this Court is of the view that in the absence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset the concurrent findings of the Trial Court and the Sessions Court.

18. The present revision has to be decided as per the parameters laid down by the Honble Supreme Court.

19. Complainant Manjeet Singh (PW-1) stated that he went to the shop at Dhaliara, which was being run in the name and style of M/s Mukesh Confectionery. The accused was sitting in the shop. He demanded a Food License, but the accused failed to produce it. He demanded a sample of biscuits, but the accused refused to provide the sample. The accused pushed the complainant out of the shop He threatened the complainant by saying that he (the complainant) should leave the shop, otherwise it would not be good for him. He associated Raghubir Singh and Ashish Raina (PW-3) as witnesses.

20. The accused admitted in his statement recorded under Section 313 of Cr.P.C. that the complainant was posted as a Food Inspector. He admitted the visit of the complainant to his shop. He admitted that the complainant had demanded the license and sample of biscuits. He told the complainant that the license was displayed in the shop and the shop was in the name of Mukesh, son of the accused. Thus, the learned Courts below had rightly held that the substantial part of the complainants case was accepted by the accused in his statement recorded under Section 313 of Cr.P.C. It was laid down by the Hon'ble Supreme Court in State of Maharashtra v. Sukhdev Singh, (1992) 3 SCC 700: 1992 SCC (Cri) 705: 1992 SCC OnLine SC 421 that the Courts can rely upon the statement of the accused made

under section 313 Cr.P.C. It was observed at page 742:

51. That brings us to the question of whether such a statement recorded under Section 313 of the Code can constitute the sole basis for conviction. Since no oath is administered to the accused, the statements made by the accused will not be evidence stricto sensu. That is why sub-section (3) says that the accused shall not render himself liable to punishment if he gives false answers. Then comes sub-section (4), which reads:

313. (4) The answers given by the accused may be taken into c nsiderati n in such inquiry or trial, and put in evidence for or against him in any other inqui y into, or trial for, any other offence which such answers may tend to show he has committed.

Thus, the answers given by the accused in response to his examinati n under Section 313 can be taken into considerati n in such an inquiry or trial. This much is clear on a plain reading of the above sub-section. Therefore, though not strictly evidence, sub-section (4) permits that it may be taken into consideration in the said inquiry or trial. See State of Maharashtra v. R.B. Chowdhari (1967) 3 SCR 708: AIR 1968 SC 110: 1968 Cri LJ 95. This Court, in the case of Hate Singh Bhagat Singh v. State of M.B. 1951 SCC 1060: 1953 Cri LJ 1933: AIR 1953 SC 468 held that an answer given by an accused under Section 313 examination can be used for proving his guilt as much as the evidence given by a prosecution witness. In Narain Singh v. State of Punjab (1963) 3 SCR 678: (1964) 1 Cri LJ 730, this Court held that if the accused confesses to the commission of the offence with which he is charged, the Court may, relying upon that confession, proceed to convict him. To state the exact language in which the three-Judge bench answered the question, it would be advantageous to reproduce the relevant observations at pages 684-685:

Under Section 342 of the Code of Criminal Procedure by the first sub-section, insofar as it is material, the Court may at any stage of the enquiry or trial and after the witnesses for the prosecution have been examined and before the accused is called upon for his defence shall put questions to the accused person for the purpose of enabling him to explain any circumstance appearing in the evidence against him. Examination under Section 342 is primarily to be directed to those matters n which evidence has been led for the pr secuti n to ascertain from the accused his version or explanation, if any, of the incident which forms the subject-matter of the charge and his defence. By sub-section (3), the answers given by the accused may be taken into consideration at the enquiry or the trial. If the accused person in his examination under Section 342 c nfesses to the commission of the offence charged against him the court may, relying upon that confession, proceed to convict him, but if he does not confess and in explaining circumstance appearing in the evidence against him sets up his own version and seeks to explain his conduct pleading that he has committed no offence, the statement of the accused can only be taken into consideration in its entirety. (emphasis supplied)

Sub-section (1) of Section 313 corresponds to sub-section (1) of Section 342 of the old Code, except that it now stands bifurcated in two parts with the proviso added thereto clarifying that in summons cases where the presence of the accused is dispensed with, his examination under clause (b) may also be dispensed with. Sub-section (2) of Section 313 reproduces the old sub-section (4), asd the present sub-section (3) corresponds to the old sub-section (2) except for the change necessitated on account of the abolition of the jury system. The present sub-section (4) with which we are concerned is a verbatim reproduction of the old sub-section

(3). Therefore, the aforestated observations apply with equal force.

21. This question was again considered by the Honble Supreme Court in Mohan Singh v. Prem Singh, (2002) 10 SCC 236: 2003 SCC (Cri) 1514: 2002 SCC OnLine SC 933, and it was held that the statement made by the accused under Section 313 Cr.P.C. can be used to lend credence to the evidence led by the prosecution, but a part of such statement cannot form he sole basis for conviction. It was observed at page 244: -

27. The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under Section 313 of the Code of riminal Procedure cannot be made the sole basis of his conviction. The law on the subject is almost settled that the statement under Section 313 CrPC of the accused can either be relied on in whole or in part. It may also be possible to rely on the inculpatory part of his statement if the exculpatory part is found to be false on the basis of the evidence led by the prosecution. See Nishi Kant Jha v. State of Bihar (1969) 1 SCC 347: AIR 1969 SC 422: (SCC pp. 357-58, para 23)

23. In this case, the exculpatory part of the statement in Exhibit 6 is not only inherently improbable but is contradicted by the other evidence. According to this statement, the injury that the appellant received was caused by the appellant's attempt to catch hold of the hand of Lal Mohan Sharma to prevent the attack on the victim. This was contradicted by the statement of the accused himself under Section 342 CrPC to the effect that he had received the injury in a scuffle with a herdsman. The injury found on his body when he was examined by the doctor on 13-10-1961, negatives of both these versions. Neither of these versions accounts for the profuse bleeding which led to his washing his clothes and having a bath in River Patro, the amount of bleeding and the washing of the bloodstains being so considerable as to attract the attention of Ram Kishore Pandey, PW 17 and asking him about the cause thereof. The bleeding was not a simple one as his clothes all got stained with blood, as also his books, his exercise book and his belt and his shoes. More than that, the knife which was discovered on his person was found to have been stained with blood acc rding to the report of the Chemical Examiner. Acc rding to the post-mortem report, this knife could have been the cause of the injuries on the vic im. In circumstances like these, there being enough evidence to reject the

exculpatory part of the statement of the appellant in Exhibit 6, the High Court had acted rightly in accepting the inculpatory part and piercing the same with the other evidence to come to the conclusion that the appellant was the person responsible for the crime. (emphasis supplied)

22. It was laid down in Ramnaresh v. State of Chhattisgarh, (2012) 4 SCC 257: (2012) 2 SCC (Cri) 382: 2012 SCC OnLine SC 213, that the statement of the accused under Section 313 of Cr.P.C., insofar as t supports the case of the prosecution, can be used against him for rendering a conviction. It was observed at page 275: -

52. It is a settled principle of law that the obligation to put material evidence to the accused under Section 313 CrPC is upon the court. One of the main objects of recording a statement under this provision of the CrPC is to give an opportunity to the accused to explain the circumstances appearing against him as well as to put forward his defence, if the accused so desires. But once he does not avail this opportunity, then consequences in law must follow. Where the accused takes benefit of this opportunity, then his statement made under Section 313 CrPC, insofar as it supports the case of the prosecution, can be used against him for rendering a conviction. Even under the latter, he faces the consequences in law.

23. This position was reiterated in Ashok Debbarma v State of Tripura, (2014) 4 SCC 747: (2014) 2 SCC (Cri) 417: 2014 SCC OnLine SC 199, and it was held that the statement of the accused recorded under Section 313 of Cr.P.C. can be used to lend corroboration to the statements of prosecution witnesses. It was held at page 761:-

24. We are of the view that, under Section 313 statement, if the accused admits that, from the evidence of various witnesses, fo r persons sustained severe bullet injuries by the firing by the accused and his associates, that admission of guilt in Secti n 313 statement cannot be brushed aside. This ourt in State of Maharashtra v. Sukhdev Singh [(1992) 3 S 700: 1992 SCC (Cri) 705 held that since no oath is administered to the accused, the statement made by the accused under Section 313 CrPC will not be evidence stricto sensu and the accused, of course, shall not render himself liable to punishment merely on the basis of answers given while he was being examined under Section 313 CrPC. But, sub-section (4) says that the answers given by the accused in response to his examination under Section 313 CrPC can be taken into consideration in such an inquiry or trial. This Court in Hate Singh Bhagat Singh v. State of Madhya Bharat, 1951 SCC 1060: AIR 1953 SC 468: 1953 Cri LJ 1933 held that the answers given by the accused under Section 313 examination can be used for proving his guilt as much as the evidence given by the prosecution witness. In Narain Singh v. State of Punjab (1964) 1 Cri LJ 730: (1963) 3 SCR 678, this Court held that when the accused confesses to the commission of the offence with which he is charged, the court may rely upon the confession and proceed to convict him.

25. This Court in Mohan Singh v. Prem Singh (2002) 10 SCC 236: 2003 SCC (Cri) 1514 held that: (SCC p. 244, para 27)

27. The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under Section 313 CrPC cannot be made the sole basis of his conviction.

In this connection, reference may also be made to the judgments of this Court in Devender Kumar Singla v. Baldev Krishan Singla (2005) 9 SCC 15: 2005 SCC (Cri) 1185 and Bishnu Prasad Sinha v. State of Assam (2007) 11 SCC 467: (2008) 1 SCC (Cri) 766. The abovemen ioned decisions would indicate that the statement of the accused under Section 313 CrPC for the admission of his guilt or confession as such cannot be made the sole basis for finding the accused guilty, the reason being he is not making the statement on oath, but all the same the confessi n r admission of guilt can be taken as a piece of evidence since the same lends credence to the evidence led by the prosecution.

26. We may, however, indicate that the answers given by the accused while examining him under Section 313, fully corroborate the evidence of PW 10 and PW 13 and hence the offences levelled against the appellant stand proved and the trial court and the High Court have rightly found him guilty for the offences under Sections 326, 436 and 302 read with Section 34 IPC.

24. Ashish Raina (PW-3) stated that he had accompanied the Food Inspector on 19.08.2010 at 3:30 p.m. The accused was present in the shop. The Food inspector demanded the license, but the accused refused to show the license. The Food Inspector demanded the sample of biscuits but the accused refused to provide any sample by saying that he would not provide any sample to the complainant. He also asked the complainant to get away from the shop. The accused threatened to beat the complainant in case he did not leave the shop. A spot memo was prepared.

25. He admitted in his cross-examination that he was posted as a Drugs Inspector. He stated that he and the complainant had left the office at about 10:00 a.m. He had inspected Manohar Medical Store, which is located at a dis ance of 10-15 meters from the shop of the accused. The incident continued for about 10-15 minutes. The shopkeepers from the vicinity also came to the spot. One was Raghubir, who used to run a Dhaba. No complaint was made to the police. He was not aware that Mukesh Confectionery was owned by Mukesh, the petitioners son. He denied that the accused told The complainant that the food licence was displayed in the shop, but the Food Inspector refused to look into it. The Food Inspector had accompanied him at Jawalamukhi and Dhaliara. He denied that he and the complainant were friends.

26. It was submitted that this witness had accompanied the complainant from the office of the CMO. He was posted as a Drugs Inspector and was an associate of the complainant. Therefore, he could not be called an independent person. This submission is only stated to be rejected. He is a public official, and nothing has been shown in his testimony that he had a motive to depose against the accused. There is

a presumption under Section 114 of the Indian Evidence Act regarding the regularity of the official acts, and this presumption will also apply to Ashish Raina (PW -3). Therefore, the testimony of Ashish Raina (PW-3) cann t be discarded simply because he happened to be a Drugs Inspect r p sted in the office of the CMO.

27. The testimony of these witnesses are corroborated by the spot memo (Ext.PW-1/A) in which it was mentioned that Manjeet Singh (PW-1) had inspected the shop of Daljeet Singh M/s Mukesh Confectionery, Dhaliara on 19.08.2010 at around 3:30 p.m. and asked for Food License and sample of biscuits, which were kept for sale to the general public, however, Daljeet Singh did not show the food license and he abused and pushed the complainant out of the shop and threatened the complainant to get lost from the shop otherwise he (the accused) would beat the complainant. He also refused to provide a sample of biscuits and said that he would not give any sample at any cost. He was requested to sign the spot memo, but the accused refused to do so and threatened the complainant again. The complainant associated Raghubir Singh and Ashish Raina (PW-3) as witnesses.

28. It was submitted that the contents of the spot memo falsify the statement of the complainant. The spot memo could not have mentioned the refusal to put the signatures, as the signatures were to be obtained after the completion of the spot memo and not before it. This submission is not acceptable. The spot memo was prepared on the spot and contains what had transpired on the spot. The Food Inspector had mentioned that the license was not shown to him, and the accused had not provided the sample of biscuits to the complainant. The next step would have been to ask the accused to put his signature on the memo, and when the accused refused to do so, the spot memo would continue. Thus, the spot memo would not become doubtful simply because it was mentioned in it that the accused had refused to put his signature on the memo.

29. It was submitted that mere refusal to provide the samples does not constitute any offence. The Food Inspector had sufficient authority to take a sample himself. This submission cannot be accepted. It was laid down by the Kerala High Court in Food Inspector, Tirur Circle vs. K.P. Alavkutty 1987 Cr. L. J. 1298, that the term prevent or prevention is not defined in the Act or the Rules. Any overt act on the part of the seller is not required apart from the mere refusal to sell the articles to the Food Inspector It was observed:

8. 'Prevent' or 'prevention' is not defined in the Act or Rules. The Magistrate seems to have gone under the impression that physical prevention from purchasing or taking the sample is necessary and that there will be no offence if the Food Inspector was successful in taking the sample in spite of the acts or omissions of the accused. That view is not correct. In order to cons itu e prevention, there need not be any overt act on the pa of he seller apart from mere refusal to sell the article of food to the Food Inspector. In Municipal Board v. Jhamman Lal, AIR 1961 All 103 : (1961 (1) Cri LJ 204) and Mamchand v. State of U.P., 1971 Cri LJ 1772 (All) the law laid

down was that mere disappearance or slipping away of the seller fr m the shop when the Food Inspector demanded the sample disclosing his identity and purpose by itself will amount to prevention. A different note was struck in Jagannath v. State of M.P., 1977 Cri LJ 974 (Madh Pra), which held that when the accused bolted away, the Food Inspector was free to take the sample and therefore there was no prevention. Narain Prasad v. State, AIR 1978 Raj 162 : (1978 Cri LJ 1445) (FB) also took almost the same view and held that apart from mere refusal, some overt act on the part of the seller is necessary. But a contrary view was taken in Habeebkhan v. State of Madhya Pradesh, 1971 MPLJ 883. Rajinder Pershad v. State of Haryana, (1983) 3 SCC 452: AIR 1983 SC 878 : (1983 Cri LJ 1364) considered all these decisions and approved the view that mere slipping away by the seller when the Food Inspector demands sample, under the guise of passing urine without accepting the notice and cash will amount to prevention even though in spite of the action the Food Inspector was able to take the sample.

9. The sample has to be purchased or taken according to the provisions of the Act and Rules, and certain formalities are required for that purpose. When the seller disappears, the Food Inspector will find it difficult to observe these formalities for which the co-operation of the seller is required. For example, without the co-operation of the seller, issuance of Form VI notice, payment of price, obtaining a receipt for that purpose, obtaining the necessary signatures of the seller and getting his name and address, etc., will become impossible and thereby the Food Inspector cannot get the sample as required under the Act and Rules. He may have to undergo difficulties in this respect. If the seller bolts away or refuses to sell the sample and cooperate with the Food Inspector in his acti n, additional burdens will be cast on the Food Inspec or. Those burdens will include proof of identity of the seller and the fact that the article left was in his possession. In o der to constitute prevention, not only no overt act apart from mere slipping away, refusal or non-co-operation is necessary, but it is also not necessary that preventi n was successful. Difficulties caused to the Food Inspect r by any conscious acts or omissions in discharging his functions or exercising his powers will be sufficient to constitute prevention.

10. Use of force or show of force is not necessary. Threat also will amount to prevention. He need not be physically obstructed. Creating a row or conduct and demeanour amounting to prevention will also be sufficient. Some positive or negative volitional act or omission on the part of the accused so as to hinder the Food Inspector from getting the sample will be sufficient. Throwing away, destroying or otherwise making the sample unavailable will be sufficient. Therefore, it is difficult to support the opinion of the Magistrate that the allegations in the complaint do not constitute an offence and that the complaint is false. This is the first illegality.

30. A similar view was taken by the Madhya Pradesh High Court in Naryanprashad vs. State of Madhya Pradesh, 1984 Cr. LJ 556, in which it was held:

4. Arguments advanced are apparently without any merit. It is, no doubt, true that the word "refusal" and the word "prevention" are not altogether synonymous, and have different shades of meaning. As has been explained in the Full Bench decision of Rajasthan High Court reported in Narain Prasad v. State of Rajasthan, AIR 1978 Raj 162 : (1978 Cri LJ 1445), an act of refusal s metimes may amount to prevention when accompanied by the requisite conduct or demeanour of the accused person. Whether a refusal in any particular case amounts o p evention will have to be decided on the facts and ci cumstances of each case. Chhedilal v. Medical Health Officer, Faizabad, 1980 Cri LJ 367 (All), cited by the applicants; learned counsel has no application to the present case. Since the facts there are quite different from those present in the instant case. The case cited is one where the accused person, on being asked to sell the sample of milk, had simply run away, leaving behind the containers with milk and the cycle. Nothing else was done by the accused persons and hence, in these circumstances, it was held that The accused persons, at worst, had refused to co-operate with the Food Inspector in selling the sample of milk to him, and it was open to the Food Inspector even in the absence of the accused persons, to take the sample in the presence of the witnesses. Such a case was, hence, held to be one not of "prevention". Another cited case, viz. Municipal Council, Jaipur v. Mangilal, (1975) 2 FAC 284 ; (1975 Cri LJ 1728) (Raj) wherein distinction is sought to be drawn between the two terms "prevents" and "refuses", on the strength of certain Dictionary meanings, has also no application to the present case. The cited case was one where there was no overt act of obstruction, but there was a negative approach of the accused in not cooperating with the Food Inspector to accompany him wherever he desired to take him.

5. The present case has more than sufficient overt acts to envelop the accused within the ambit of the offence punishable under Section 16 (1) (c) of the Act. It may well, be remembered that the "prevention", as used in S. 16 (1) (c) ibid does not necessarily involve an obstruction by physical force or by threats, though it may include them, but there must be some deliberate act or acts of the accused, which may hinder the Food Inspector from exercising his powers of taking the sample under Section 10 (1) of the Act. The word "preventing" necessarily implies the doing of some act by the accused which may actually make it impossible for the Food Inspector to obtain the sample in exercise of his powers: Municipal Board v. Mulukdas Gupta, 1971 Cri LJ 705 (All) and State of Rajasthan v. Asharaph, 1978 FA.T 323 (Raj).

6. The facts of the present case are somewhat similar to, and even stronger than those, as present in the Full Bench case of the Rajasthan High Cou theported in Narain Prasad v. State of Rajasthan (1978 Cri LJ 1445) (supra). This Full Bench case was one where the acc sed had refused to take notice and to give the sample to the

Food Inspector and had created a row in this regard, and it was held in these circumstances that the conduct of the accused did fall within the mischief of Section 16 (1) (c) of the Act. The present case is one which is not a case of mere refusal, but comprises of very many overt acts, and such obstructive and obdurate conduct of the applicant-accused which brought him within the mischief of Section 16 (1) (c) of the Act. The applicant-accused not only refused to sell. Sample of groundnut oil to the Food Inspector, but refused to accept the notice and further refused to sign any papers that the Food Inspector intended to present to him for his signature. Not only that, his misdemeanour is found to travel much far. The applicant-accused is found to have told the Food Inspector that he would not show any bills of purchase to him, and he had no time to show him any bills, nor would he sell the sample to him on any account. The applicant-accused's obstruction and resistance went so far that he finally told the Food Inspector to go away from his place, with a threat that he might take any action against him, as he might choose to take. In such circumstances, when the Food Inspector was so threatened and was asked to get out of the shop, the Food Inspector obviously had no other choice and had no means to take the sample, by exercising any force, which he could not, under the violent and threatening attitude of the applicant-accused In these circumstances, finding myself in agreement with the findings of the lower appellate Court, I am clearly of the view that the applicant-accused had prevented the Food Inspector from taking the sample from him. His conviction, therefore, is well merited; and equally so, the sentence of imprisonment and fine, as awarded against him.
31. In the present case, the accused had asked the Food Inspector to get out of the shop. The accused had also threatened the complainant; therefore, the efusal was complete.

32 It was submitted that the accused was not the owner of the shop, and the F d Inspector could not have taken a sample from the accused. This submission is not acceptable. It was held by this Court in Ibrahim Haji Moidee v. Food Inspector, (1969) 3 SCC 901: 1970 SCC (Cri) 167: 1969 SCC OnLine SC 268, that PFA provides that any person, whether employer or servant, cannot sell adulterated food to any person, and if he does so, he is liable. It was observed at page 902:

4. The judgment of the learned Sessions Judge on the face of it is manifestly illegal. For the purpose of a conviction under the charge on which A-2 was tried, it was immaterial whether he was an agent or a partner of A-1. Once it is proved that it was he who sold the adulterated article, he was liable to be convicted under Section 16(1), read with Section 7 of the Prevention of Food Adulteration Act. The contention of Mr Sanghi, learned counsel for the appellants, that under those provisions only the owner of the shop could be convicted is a wholly unsustainable contention. It is not necessary to examine that contention in detail in view of the decision of this Court in Sarjoo Prasad v State of U.P. [1960 SCC OnLine SC 58: (1961) 3 SCR 324]

33 This position was reiterated in State of Orissa v. K. Rajeshwar Rao, (1992) 1 SCC 365: 1992 SCC (Cri) 177: 1991 SCC OnLine SC 302, wherein it was observed at page 368:

4. In Sarjoo Prasad v. S a e of U.P. (1961) 3 SCR 324: AIR 1961 SC 631 : (1961) 1 Cri LJ 747, it was contended that a servant who sold food on behalf of his employer was not liable unless it was known that he had done it with knowledge that the f d was adulterated. This Court held that Section

7 of the Acthenj ins everyone, whether an employer or a servant, not to sell adulterated food, and anyone who contravenes this provision is punishable under Section 16 without proof of mens rea. This Court repelled the argument that the legislature could not have intended, having regard to the fact that a large majority of servants in the shops which deal in food are illiterate, to penalise servants who are not aware of the true nature of the article sold. The intention of the legislature must be gathered from the words used in the statute and not by any assumption about the capacity of the offenders to appreciate the gravity of the acts done by them. There is also no warrant for the assumption that the servants employed in shops dealing in foodstuffs are generally illiterate. In the interest of public health, the Act was enacted, prohibiting all persons from selling adulterated food. In the absence of any provision, express or necessarily implied from the context, the courts will not be justified in holding that the prohibition was only to apply to the owner of the shop and not to the agent of the owner who sells adulterated food. This view was reiterated in Ibrahim Haji Moideen v. Food Inspector [(1969) 3 SCC 901: 1970 SCC (Cri) 167 : (1976) 2 FAC 66 (SC). This Court held that for the purpose of conviction under the charge on which A-2 was tried, it was immaterial whether he was an agent or a partner of A-1. Once it is proved that he sold the adulterated articles, he was liable to be convicted under Section 16(1) read with Section 7 of the Act. The contention that it is only the owner of the shop who could be convicted was held to be wh lly an unsustainable contention.

5. The Act is a welfare legisla ion to prevent health hazards from consuming adul e a ed food. The mens rea is not an essential ingredient. It is a social evil, and the Act prohibits the commission of the offences under the Act. The essential ingredient is the sale to the purchaser by the vendor. It is n t material to establish the capacity of the person vis-à-vis the owner of the shop to prove his authority to sell the adulterated food exposed for sale in the shop. It is enough for the prosecution to establish that the person who sold the adulterated article of food had sold it to the purchaser (including the Food Inspector) and t at the Food Inspector purchased the same in strict compliance with the provisions of the Act. As stated earlier, the sanctioning authority has to consider the material placed before it, whether the offence of adulteration of food was committed and is punishable under the Act. Once that satisfaction is reached and the authority is competent to grant the sanction, the sanction is valid. It is not necessary for the sanctioning authority to

consider that the person who sold is the owner, servant, agent or partner or relative of the owner or was duly authorised in this behalf.

34. Thus, the Food Inspector could have taken the sample from any person, whether the employee or servant or the agent of the owner and no fault can be found with the demand of the sample from the accused present in the shop. The accused had not disputed the fact that he was present in the shop on behalf of his son, who was the owner. Thus, the submission that the Food Inspector had no authority to take the sample rom the accused is without any basis.

35 It was submitted that the complainant was required to serve a notice upon the acc sed before taking the sample; however, in the present case, no n tice was served upon the accused, which made the whole of the complainants case suspect. Reliance was placed upon the judgment of this Court in Vahid vs State of Himachal Pradesh 1997(1) S.L.J. 577. In the cited case, the Food Inspector had taken the sample, and in this context, it was held that the Food Inspector was required to serve the notice, in the absence of which the taking of the sample would not be valid. In the present case, no sample was taken; hence, the cited judgment does not apply to the present case.

36. Both the learned Courts below have concurrently found that the complainant had demanded a sample from the accused, who had refused to give the sample. He threatened the complainant and pushed him out of the shop. These are the pure findings of the facts and cannot be re-appreciated while exercising the revisional jurisdiction.

37. It was submitted that the sancti n was not proper because the date of the complainants visit was mentioned 18.08.2010, whereas the Food Inspector had visited the shop of the accused on 19.08.2010. The learned Courts below had rightly held that it was a clerical mistake. The other details, like the name of the accused, the place where the shop was located and the sample of biscuit which was demanded, were correctly mentioned. Thus, the consent cannot be held to be invalid simply because the date of the v s t was wrongly mentioned.

38. It was submitted that the shop had a valid license to sell the food articles, which was proved by Dr S.K. Gautam (DW-1) and the recital in the written consent (Ext.PW-1/C) that the accused did not have a valid food license is not correct, which shows the non-application of mind. This submission proceeds on the basis that the CMO is supposed to make an inquiry regarding the correctness of the allegations made by the complainant. He has no such duty He is supposed to look into the documents produced before him and determine whether a case is made out for launching the prosecution or not. He is not to adjudicate whether the allegations are correct or not.

39. Further, Dr S.K. Gautam (DW -1) was posted as BMO at CHC Dadasiba, and his office had issued the license. Nothing was asked in the cross-examination that the

licence was forwarded to the CMO. Thus, in the absence of evidence that a license was forwarded to CMO, the CMO cannot be faulted for granting sanction to launch the prosecution.

40. Thus, there is no infirmity in the judgments and order of learned Courts below holding the accused guilty of the commission of an offence punishable under Section 16(1)(c) of the PFA Act.

41. Learned Trial Court had imposed a sentence of six months, which is a minimum prescribed sentence and no interference is required with the sentence imposed by the learned Trial Court as affirmed by the learned Appellate Court.

42. No other point was urged.

43. In view of the above, the present revision fails, and it is dismissed, so also the pending application, if any.

44 The records of the learned Courts below be returned alongwith a copy of this judgment.