

(1991) 04 P&amp;H CK 0012

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Criminal Miscellaneous No. 237 of 1989

Shyam Lal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision:** April 22, 1991**Acts Referred:**

- Constitution of India, 1950 - Article 21
- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Prevention of Food Adulteration Act, 1954 - Section 16(1), 16A, 7

**Citation:** (1992) 1 ILR (P&H) 38**Hon'ble Judges:** Jai Singh Sekhon, J**Bench:** Single Bench**Advocate:** H.N. Mehtani, for the Appellant; P.L. Verma, for the Respondent**Final Decision:** Dismissed

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**Judgement**

Jai Singh Sekhon, J.

Sham Lal, Petitioner has invoked the inherent jurisdiction of 1973 for quashing the complaint and the order of the trial Court framing charge for offences u/s 16(1)(c) read with Section 7 of the Prevention of Food Adulteration Act, inter alia, on the ground that the trial Court had no jurisdiction to pass the order u/s 16-A of the Act at a belated stage to the effect that the case should be tried as a warrant case as adequate punishment cannot be awarded in a summary trial. It is further maintained that the pendency of the trial for a number of years had resulted in negating the spirit of Article 21 of the Constitution.

2. The brief resume of facts figuring in complaint Annexure P. 1, relevant for the disposal of this petition is that on 16th May, 1984, at about 11.30 a.m. Shri Inder Nath Sehgal, Food Inspector! Assandh, along with Dr. Balbir Singh Chaudhry, Medical Officer, Civil Hospital, Karnal went to the shop of Sham Lal, Petitioner. The Petitioner had kept 80 Kgs. of Haldi powder for sale at his business premises. The

Food Inspector then disclosed his identity and asked the accused-Petitioner to give sample of the Haldi but the latter refused saying that he had already been implicated in another case under the Food Adulteration Act although the adulteration was done by the Company. On hearing the commotion, Madan Lal and Piare Lal, witnesses also arrived there. They tried to make the accused understand that he will not be falsely implicated but the sample will be got analysed from the laboratory and thereafter if it is found to be adulterated, only then he will be prosecuted. The accused is then stated to have lost his temper and pushed out the Food Inspector from the verandah of the shop and pulled down its shutters. The complaint was filed by the Food Inspector on 18th May, 1984.

3. The trial Court framed the charge for the above-referred offences against the accused on 7th October, 1985. Thereafter, on 14th March, 1988, the trial Court having become aware of the illegality in trying this case as a warrant case although it was required to be tried in a summary manner as per provisions of Section 16-A of the Act, then passed the order to the effect that it should be tried as a warrant case as in the trial of the case in a summary manner, adequate punishment cannot be awarded for the above-referred offences. The trial Court then reframed the charge on 26th September, 1988 and directed that the evidence of the witnesses be recorded.

4. The controversy whether the trial Court can pass order dated 14th March, 1988, i.e., about 2½ years of the framing of the charge to justify that the case should be tried as a warrant case and not in a summary manner on the ground of adequacy of sentence was referred by this Court to the Division Bench,--vide order dated 11th January, 1990. The Division Bench had answered the reference in favour of the powers of the trial Court to pass the order justifying the trial of the case as a warrant case by holding that no one has a vested right in any procedure.

5. Mr. H.N. Mehtani, the learned Counsel for the Petitioner by placing on Ram Chander v. State of Haryana 1982 (2) F.A.C. 331; Balwant Singh v. State of Haryana 1990 (1) F.A.C. 172; Daya Ram v. The State of Haryana 1988 (1) F.A.C. 143; Wand Lal v. State of Haryana 1987 (2) F.A.C. 95 Chaturbhuj v. State of Haryana 1985 (2) F.A.C. 205 and Mahabir Prasad v. State of Haryana 1989 (1) F.A.C. 282, contended that the delay of three to six years in the above-referred cases was considered sufficient for not remanding the case for retrial by this Court as it will result in further harassment to the accused-Petitioner. Mr. P.L. Verma, the learned Counsel for the State, on the other hand maintained that it is a case of heinous nature as the accused-Petitioner had restrained the Food. Inspector from performing his duties under the Act and that more delay in the disposal of such like cases should not be considered sufficient to quash the proceedings u/s 482 of the Code.

6. No doubt the judicial forums are allergic to the unnecessary delay in the disposal of the criminal cases as it amounts to denial of the right of speedy trial to the accused, yet all the same no uniform standard in this regard can be laid down that

every prosecution of criminal offence has to be quashed on the ground of delay in the disposal of the case for a certain number of years, because aggravating circumstances of the case as well as the other prevalent Circumstances which resulted in such delay have to be taken into consideration. The Apex Court in [Mangilal Vyas Vs. State of Rajasthan,](#) had refused to quash the proceedings on the ground of delay in the disposal of the case although it was pending before the trial Court for about 25 years, by keeping in view the nature of the allegations and the availability of evidence.

7. In the case in hand, the accused-Petitioner is alleged to have committed a crime of heinous nature by restraining with force the Inspector to take the sample of the Haldi powder, although this is the only mode under the Act to restrain the evil of selling the petition is ordered to be dismissed. The Petitioner through his counsel is directed to appear before the trial Court on 13th May, 1991. The trial Court is directed to dispose of the case expeditiously, preferably within six months.