

(1985) 01 P&H CK 0011

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Revision No. 1244 of 1983

Bhopat Ram

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Jan. 14, 1985**Citation:** (1985) 1 AICLR 671 : (1985) 1 CurLJ 567**Hon'ble Judges:** M.M.Punchhi, J**Advocate:** H.S. Mann, H.S. Sawhney, Advocates for appearing Parties

Judgement

Madan Mohan Punchhi, J.(Oral)

1. The petitioner was found to be in possession of Haldi powder meant for sale at his business premises. The Food Inspector on 10th September 1981, visited the business premises of the petitioner and purchased from him a sample thereof. The sample was divided into three equal parts and put into dry bottles. Those were duly stoppered and sealed as also labelled in accordance with rules. One of the same went to the Public Analyst brought the result that the Haldi powder was adulterated. On the basis thereof complaint was filed on 24th December, 1981. The petitioner at the earliest opportunity requested the Court to have the second sample sent to the Director, Central Food Laboratory. The prayer was acceded to and as sample was sent to the Director. Vide report dated 8th December, 1982, the Director, Central Food Laboratory, reported that in the sample moisture content was 9% as against permissible upto 13%, but the sample contained 42 live insects larvae, 9 dead insects larvae, 14 dead insects and a number of insect larvae cocoons. On this result, the report of the Public Analyst, the petitioner was prosecuted and convicted under section 16 (1) (a) (i) of the Prevention of Food Adulteration Act, and sentenced to 6 months rigorous imprisonment, and to pay a fine of Rs. 1,000/-.

2. The sole point raised by the learned counsel for the petitioner is that the sample itself was taken on 30th September, 1981, a period of receding rains, and the report of the Director came more than 4 months thereafter. It has further been pointed out that the sample contained moisture and the possibility could not be ruled out that

when no preservative was added to the sample, the moisture content could have led to the appearance of larvae cocoons including insects live and dead, depending on their appearance, due to the natural factors. Reliance was placed by him on two decisions rendered by me in Ghansham Dass v. The State of Haryana, 1983 (II) FAC 87 and Gulshan Rai v. The State of Punjab, 1983 (II) FAC 328. Out of these, the former was a case of chilly powder and the latter of wheat flour. In somewhat similar circumstances, the accused therein were extended benefit of doubt, on account of period of taking sample, the possibility of moisture content, the nonadding of preservative and delay of analysis resulting in the appearance of insect larvae, fullfledged insects dead or alive. The present case is fully covered by the ratio of the aforesaid decision. Placing reliance on the same, the accused too has to be extended the benefit of doubt. He is accordingly acquitted of the charge.

3. For the foregoing reason, this petition is accepted with the result aforesaid.