

**(2006) 07 P&H CK 0220**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Miscellaneous No. 350-MA of 2005

State of Haryana

APPELLANT

Vs

Munim

RESPONDENT

**Date of Decision:** July 4, 2006

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 378(3)

**Citation:** (2006) 4 RCR(Criminal) 245

**Hon'ble Judges:** R.S. Madan, J

**Bench:** Single Bench

**Advocate:** P.S. Sullar, for the Appellant; Ashwani Gaur, for the Respondent

**Final Decision:** Dismissed

**Judgement**

R.S. Madan, J.

This petition u/s 378(3) of the Code of Criminal Procedure, has been filed by the State of Haryana for seeking Leave to Appeal against the order dated 14.03.2005, passed by Dr. Abdul Majid, Sub Divisional Judicial Magistrate, Ganaur in Criminal Case No. RT-443/2 of 2001, whereby he has acquitted the accused of the charges under the Prevention of Food Adulteration Act, framed against him.

2. In brief the facts of the case are that on 12.05.1995 at about 6 P.M. Government Food Inspector Shri B.C. Verma, inspected the premises in the area of Village Kheri Road, Ganaur, owned by the accused and found in his possession of 50 sealed packets of iodized Salt Tata contained in a Rack for sale. After disclosing his identity, the Government Food Inspector demanded a sample of the said salt from him and purchased three packets of iodized Salt Tata and divided into three parts. One sample was sent to the Public Analyst, Haryana, Karnal for analysis. As per the report of the Public Analyst, the samples gives 7.4 P.P.M. of iodine content against the minimum specific limit of 15.0 P.P.M. (ii) the batch number, date of manufacturing were not printed on the label as required under clauses (e) & (f) of

Rule 32 of the P.F.A. Rules, 1955 and thereby contravened the provisions of Section 7 of the PFA Act, 1954 punishable u/s 16(1) and u/s 16(1)(a)(ii) of the said Act.

3. Charge against the accused was framed accordingly by the trial court, to which he pleaded not guilty and claimed trial.

4. To bring home the guilt against the accused, the complainant GFI besides himself appearing in the witness box a PW-3, examined J.R. Bansal PW- 1, and Ashok Kumar PW-2.

5. We have heard the learned counsel for the parties and have gone through the documents placed on the record.

6. The learned trial court after hearing learned counsel for the parties as well as going through the documents relied upon by the complainant, noticed that there was utter violation of Section 13(2) of the PFA Act, which makes it mandatory for the prosecution to sent the copy of the report of the result of the analysts to the accused asking him that if he so desire he may make an application to the court concerned within a period of 10 days from the date of receipt of the copy of the report to get the sample of food article kept by the Local (Health) Authority analyzed by the Central Food Laboratory. In the instant case, the accused did not receive any report from the concerned authority, as a result of which he was deprived of his valuable right available to him u/s 13(2) of the Act. Though, an attempt was made by the prosecution to prove that the report of the Analyst was sent to the accused through registered A.D. But the accused did not receive as the A.D. Was not received back by the concerned authority from the Postal Department. Therefore, it cannot be presumed that the report of the Public Analysts has reached the accused as per the requirement of Section 13(2) of the Act. This fact has already been taken note of by the learned trial Court in Paras No. 8 and 9 of the judgment.

7. In the light of the reasoning adopted by the learned Sub Divisional Judicial Magistrate, Ganaur, the petition for leave to appeal is declined.

Petition dismissed.