

**(2007) 10 P&H CK 0165**

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

**Case No:** Criminal Revision No. 626 of 1995

Tejbir

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision:** Oct. 17, 2007

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Prevention of Food Adulteration Act, 1954 - Section 16(1)(a)(i)
- Probation of Offenders Act, 1958 - Section 4(1)

**Citation:** (2008) 1 RCR(Criminal) 817

**Hon'ble Judges:** A.N. Jindal, J

**Bench:** Single Bench

**Advocate:** Ram Avtar Yadav, for the Appellant; Pawan Singh, Asstt. Advocate General, Haryana, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

A.N. Jindal, J.

This revision petition has arisen out of the judgment dated 14.7.1995 passed by Additional Sessions Judge, Gurgaon dismissing the appeal of the accused-Petitioner (hereinafter referred to as the Petitioner) against the judgment dated 24.9.1993 passed by Chief Judicial Magistrate, Gurgaon convicting the Petitioner u/s 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short 'the Act').

2. Brief facts of the case are that on 28.4.1990, at about 6.20 a.m. Food Inspector H.C. Dhingra intercepted the Petitioner along with 14 liter of mixed milk for sale. Out of it, 750 milliliters of milk was purchased against payment of Rs. 4.50. The sample so purchased was put in three dry and clean bottles in equal quantity after completion of required formalities i.e. labeling, putting stoppers, wrapping and sealing, etc. On analysis of the sample by Public Analyst, Haryana, Karnal, it was found adulterated. The milk fat fell below minimum specified limit of 4.5% and milk

solids not fat fell below minimum specified limit of 8.5%. Consequently, complaint Ex. PF was instituted.

3. Notice of accusation u/s 16(1)(a)(i) of the Act was issued, to which the Petitioner pleaded not guilty and claimed trial.

4. To prove its case, the prosecution examined Hukam Chand Dhingra (PW-1), Vinod Girotra, SMO (PW-2) and Dr. Sultan Singh (PW-3). After tendering into evidence the report of the Public Analyst, Ex. PD and some other documents, the prosecution closed its evidence.

5. When examined u/s 313 of the Code of Criminal Procedure, the Petitioner denied all the allegations and pleaded his false implication in the case. However, no evidence was led. The trial ended in conviction. The appeal filed by him also failed.

6. Without assailing the judgment of conviction, Mr. Ram Avtar Yadav, the learned Counsel appearing for the Petitioner has straightway sought indulgence of this Court for extending some leniency in favour of the Petitioner in the matter of sentence, keeping in view the longevity of the proceedings and marginal deficiency in the contents of the milk.

7. Specified minimum limit of milk fat is 4.5% and of milk solids not fat is 8.5%, but the report of the Public Analyst, Karnal reveals that the sample milk contained milk fat 4.3 and milk solids not fat 8.2% and, thus, the deficiency was 0.2% in milk fat and 0.3% in milk solids not fat. Collective reading of the testimonies of the prosecution witnesses reveals that all formalities had been completed before taking the sample, which was found deficient. The courts below have properly appreciated the evidence and, thus, rightly concluded in convicting the Petitioner on its basis.

8. However, taking conspectus of the circumstances that the Petitioner is the sole bread-winner of his family; longevity of the proceedings; his not repeating the offence, it would not be inappropriate to give him a chance to reform himself.

9. As such, the petition is dismissed with the modification in the sentence that the Petitioner is extended the benefit of probation u/s 4(1) of the Probation of Offenders Act, 1958 on his executing bond in the sum of Rs. 5,000/- with one surety, in the like amount to the satisfaction of the trial Court for a period of one year within which period he will continue to be of good behaviour and keep peace and in case of breach of conditions of the bond, he will be ready to serve the sentence as and when called for. The cost of litigation is quantified at Rs. 25,000/- to be paid by the Petitioner to the State within three months from today, failing which the same will be recovered as fine.