

(2007) 07 P&H CK 0197

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 162 of 1993

Sawan Mal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: July 6, 2007**Acts Referred:**

- Prevention of Food Adulteration Act, 1954 - Section 16(1)(a)(i), 7

Citation: (2007) 22 CriminalCC 586**Hon'ble Judges:** Mahesh Grover, J**Bench:** Single Bench**Advocate:** Nilesh Bhardwaj and Mr. Subhash Goyal, for the Appellant; Shalini Attri, Asst. Advocate General, for the Respondent

Judgement

Mahesh Grover, J.

This revision petition is directed against judgment dated 17.02.1993 of the Additional Sessions Judge. Ambala whereby the petitioner has been convicted for an offence punishable u/s 7 read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (for short, "the Act") and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.2,000/- in default of which he was further directed to undergo rigorous imprisonment for three months.

2. The petitioner, who was having a shop at Railway Road, Ambala Cantt. was found selling curd, the sample of which was taken on 23.07.1980 which was found deficient in milk fat.

3. According to the report of the Public Analyst, Haryana, the milk fat was found 3.7% which was deficient by 7.5%,

4. On the complaint having been preferred by the Govt. Food Inspector, Ambala, the Judicial Magistrate Ist Class, Ambala Cantt. proceeded against the petitioner under the provisions of the Act and finding that he has committed an offence punishable

u/s 7 read with Section 16(1)(a)(i), convicted and sentenced him vide judgment dated 10.02.1992 to undergo rigorous imprisonment for a period of nine months and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months.

5. In the appeal preferred by the petitioner, the Additional Sessions Judge, Ambala, by his judgment dated 17.02.1993, maintained his conviction, but reduced the sentence in the manner mentioned hereinabove.

6. Feeling aggrieved by the aforesaid, the petitioner is in revision before this Court.

7. I have heard the learned counsel for the parties and have perused the record.

8. At the out-set, learned counsel for the petitioner contended that even though, there are arguable points on merits, such as the fact that the sample was not made homogeneous and the cut had not been made properly and the report of the Public Analyst had not been made available to the petitioner, yet, he is confining his submission only to the fact that the petitioner has faced the agony of the criminal proceedings for the last 27 years which is in complete violation of his right under Article 21 of the Constitution of India for speedy trial. That part, the petitioner, at the time of taking the sample, was an old man of 60 years and by now, he would be fairly well advanced in age and no fruitful purpose would be served by sending him to custody to undergo the sentence awarded to him.

9. Considering the peculiar facts of this case, especially the fact that the petitioner has faced the agony of protracted criminal proceedings against him which have been going on for the last 27 years and also the fact that he was 60 years of age at the time of taking of sample, I am of the opinion that the sentence awarded to him deserves to be reduced to that of fine. For this view, I draw support from a judgment of the Supreme Court *Sri Krishan Gopal Sharma & Anr. v. Government of NCT of Delhi*, 1996(1) FAC 258 and also from the judgments of Allahabad High Court in *Bhageloo v. State of U.P. & Anr.*, 1996(2) FAC 199 and of this Court in *Mahavir v. State through Govt. Food Inspector*, 2000(4) RCR(Cri) 208 (P&H).

Consequently, the revision petition is disposed of in the following terms:

(i) The conviction of the petitioner shall remain intact;

(ii) the sentence of imprisonment awarded to him is reduced to that of a fine of Rs.5,000/- which shall include the fine of Rs.2,000/- already deposited by him. The fine shall be deposited within a period of three months from today before the trial Court failing which he shall be required to complete his sentence as awarded by the courts below.