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**(2006) 03 P&H CK 0140**

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

**Case No:** Criminal Revision No. 333 of 2000

Ramesh Chand

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision:** March 24, 2006

**Acts Referred:**

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

**Hon'ble Judges:** M.M. Aggarwal, J

**Bench:** Single Bench

**Advocate:** Bipin Ghai, for the Appellant; Ajay Singh Ghangas, DAG, for the Respondent

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**Judgement**

M.M. Aggarwal, J.

Heard. This is petition against order dated 9.2.2000 passed by Additional Sessions Judge, Panipat.

2. The facts of the case are that the present petitioner was prosecuted for the offence u/s 16(1)(a)(i) of the Prevention of Food Adulteration Act on the ground that on 2.2.1986, he was having refined groundnut oil for sale out of which samples had been taken and samples sent to the public analyst were found to be adulterated.

3. This petitioner faced trial in the Court of CJM, Panipat. Then petitioner was convicted vide judgment dated 31.8.1993 and sentenced him. Then petitioner had filed appeal. Vide judgment dated 9.2.2000, Additional Sessions Judge, Panipat found that charge should have been framed on the basis of report of Central Food Laboratory and not on the basis of report of the public analyst.

4. Counsel for he petitioner argues that the petitioner has suffered quite enough. The occurrence is that of the year 1986. Petitioner had faced trial in the trial Court upto 1993 and appeal also remained pending upto the year 2000. Counsel for the petitioner has relied on judgments this Court reported in Shital v. State of Haryana, 1989 (2) R.C.R.(Cri) 247 : 1989 (11), PGAC 232 and Bhagwant Singh & Anr. v. The State

of Punjab, 1990(1) CLR 54 whereby order for fresh trial had been set aside. It was argued that if proper charge was not framed by the trial Magistrate, petitioner was not at fault.

5. On behalf of the respondent-State, it is argued that the offence is serious in nature and in both the reports, sample was found to be adulterated.

6. The fact remains that the occurrence took place in the year 1986. Case remained pending in the trial Court from 1986 to 1993 and then appeal remained pending from the year 1993 to 2000. Order of fresh trial was as such passed after 14 years. Now another period of six years has passed. Fresh trial now after 20 years of the occurrence for no fault of the petitioner is hardship.

7. Under these circumstances, I find that appellate Court should have decided this appeal on merits from the available record of the trial Court.

8. This petition is accepted. Order dated 9.2.2000 passed by Additional Sessions Judge, Panipat is set aside. It is directed that Additional Sessions Judge, shall decide the appeal on merits.