

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl.Revn.No. 383 of 1995

Date of decision: October 31, 2007

Sucha Singh

...Petitioner

versus

U.T.Chandigarh

...Respondent

Coram: Hon'ble Mr. Justice Harbans Lal

Present: Mr. Bipan Ghai, Advocate for the petitioner.

Mr. N.S.Shekhawat, Standing Counsel for U.T.Chandigarh

Harbans Lal, J.

This revision is directed against the judgment and order dated 5.2.1993 rendered by the Court of Judicial Magistrate, 1st Class, Chandigarh whereby he convicted and sentenced the petitioner to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 1000/- or in its default to further undergo rigorous imprisonment for one month under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') as well as the judgment and order dated 22.5.1995 delivered by the Court of learned Additional Sessions Judge, Chandigarh whereby he dismissed the appeal.

The facts in brief of the prosecution case are that petitioner-accused having been found selling milk (kept in a drum) in Sector 23-B, Chandigarh was stopped on 16.6.1989 by O.P.Gautam, Food Inspector around 8 A.M.. The Food Inspector purchased 750 MLs of milk from the

accused and demanding a sample of the milk gave him notice in writing in the prescribed form. After making the payment of the said milk purchased by the Food Inspector, it was made homogeneous and three samples in dry and clean bottles were drawn with formalin put as preservative. Bottles were then labelled, stoppered, secured, fastened and wrapped in a strong thick paper and ends of wrapper were neatly folded and pasted with gum. The paper slip having serial No.3771 and Code No. D-9/89 and signature of Local Health Authority, Chandigarh was further wrapped around the sample from bottom to top pasted with gum. The bottle was secured by means of strong twine thread and sealed with four distinct seals. The thumb impression of the vendor from whom the sample had been taken was affixed in such a manner that paper slip and the wrapper both carried a part of thumb impression. One sealed bottle of the sample was sent to the Public Analyst, Chandigarh alongwith a copy of the memorandum on Form VII in a sealed packet, by hand. A copy of memorandum and specimen impression of the seal used to seal the bottle, was also given to the Public Analyst in a sealed envelop separately under intimation to the Local Health Authority. The remaining two sealed samples were handed over to the Local Health Authority, Chandigarh for custody alongwith two copies of the memorandum in sealed cover.

The report of the Public Analyst, Chandigarh showed the sample to be deficient in milk solids not fat of the 21% of the minimum prescribed standard. On receipt of report of the Public Analyst, Chandigarh through Local Health Authority, the Government Food Inspector launched the prosecution against the accused.

After recording the pre-charge evidence and hearing the Government Food Inspector as well as the learned counsel for the accused, charge under Section 16(1)(a)(i) read with Section 7 of the Act was framed against the accused, to which he did not plead guilty. After recording the prosecution evidence, statement of the accused under Section 313 Cr.P.C., hearing the learned Government Food Inspector and the learned defence counsel, the accused was convicted and sentenced by the learned trial Court as noticed at the outset.

Feeling aggrieved therewith, the accused preferred an appeal, which was dismissed by the Court of learned Additional Sessions Judge, Chandigarh.

I have heard the learned counsel for the parties and perused the record with due care and circumspection.

Mr. Bipan Ghai, Advocate representing the petitioner submitted that though there are arguable points on merits, such as the fact that the uncorroborated statement of the Food Inspector, who is interested in the success of the case cannot be relied upon and there is non-compliance of Section 10(7) of the Act which is mandatory in nature and the deficiency of milk solids not fat was 1.8% whereas the report of Public Analyst has given the deficiency to be 21% , nonetheless, he prays for lenient view in the matter of sentence as the petitioner has been facing the agony of trial for the last more than 18 years, which is complete violation of his right under Article 21 of the Constitution of India for speedy trial. The petitioner remained in custody for 17 days. In view of this submission, the conviction is maintained.

In view of the observations made in re: **Sri Krishan Gopal Sharma and another v. Government of NCT of Delhi**, 1996(1) Food Adulteration Cases 258, **Bhageloo v. State of U.P. and another**, 1996(2) Food Adulteration Cases 199 and of this Court in **Mahavir v. State through Govt. Food Inspector**, 2000(4) Recent Criminal Reports (Criminal) 208 and **Sawan Mal v. State of Haryana** 2007(3) Recent Criminal Reports 975 and the fact that the petitioner has been undergoing the ordeals of prosecution since pretty long time, the sentence of imprisonment awarded to the petitioner is reduced to that of fine of Rs.5000/- only which shall include the fine of Rs.1000/- already deposited by him. The fine shall be deposited within a period of three months from today with the trial Court, failing which he shall be sent to the prison for serving out the remaining sentence as awarded by the Court below.

Revision petition stands disposed of accordingly.

October 31, 2007
gsv

(HARBANS LAL)
JUDGE