



2020 INSC 471

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL No. 2255 OF 2010

PREM CHAND

...APPELLANT

Versus

STATE OF HARYANA

...RESPONDENT

JUDGMENT

N. V. RAMANA, J.

1. The present appeal arises out of the impugned judgment dated 09.12.2009 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal no.492-DBA of 1996, whereby the High Court set aside the judgment of the trial court acquitting the appellant herein and convicted him for the offences under Section 2 (1a) (f) of the Prevention of Food Adulteration Act, 1954 (in short, 'the Act') punishable under Section 16(1A) and Section 16(1)(a)(ii)

of the Act for selling adulterated Haldi Powder and selling it without licence.

- 2.** The case of the prosecution is that, on 18.8.1982, at about 11 A.M., the Food Inspector, along with Medical Officer, inspected the shop of the accused-appellant in the presence of the witnesses and found 10 kgs of Haldi Powder in his shop. The Food Inspector purchased 600 grams Haldi Powder out of which one sample was made and then that sealed sample was sent to the Public Analyst. The report of the public analyst dated 07.09.1982, revealed that the sample was found to contain four living meal worms and two live weevils. The trial court vide order dated 31.08.1995 acquitted the appellant. However, upon appeal, the High Court vide impugned judgment dated 09.12.2009, convicted the appellant under Section 2 (1a) (f) of the Act for selling adulterated Haldi Powder and sentenced to undergo imprisonment for six months and to pay fine of Rs. 2,000/- in default whereof to undergo further imprisonment for one month under Section 16 (1A) of the Act. The High Court further convicted the appellant for offence under Section 16 (1) (a) (ii) of the Act for selling Haldi Powder

without licence and sentenced to undergo imprisonment for one month and to pay fine of Rs. 500/- in default whereof to undergo further imprisonment for fifteen days.

- 3.** The counsel for the appellant submitted that High Court upturns Trial Court judgment of acquittal into one of conviction after 27 years from the date of incident and 14 years after the date of trial court judgment. The counsel vehemently put forth that, the report of the public analyst nowhere mentions that the sample was either '*insect infested*' or was '*unfit for human consumption*'. It was lastly contended that, the appellant went unrepresented in the High Court as the advocate representing the appellant did not appear in Court.
- 4.** On the contrary the advocate appearing for the State fully supported the impugned order passed by the High Court and submitted that sample was taken from the shop of the accused-appellant which was meant for public sales and the same was found to be adulterated as per the report of the public analyst.

Therefore, the appellant is liable for the offences under Section 2 of the Act.

5. Having heard the learned counsel appearing for the parties and carefully perusing the material available on record, we note that the cross-examination of the medical officer (P.W-2) reveals that he did not find any weevils/worms in the sample on seeing it with naked eyes. Although, the food inspector (P.W-1) stated that the sample was dispatched to the public analyst on the next date, however, no parcel receipt was produced to that extent. Although, the sample was received in the office of the public analyst on 20.08.1982 and the report was finalized on 07.09.1982 after the delay of 18 days. There is no evidence that the samples were not tampered within the intervening period, therefore benefit of doubt accrues in favor of the accused. Moreover, the report of the public analyst does not mention that the sample was either “insect infested” or was “unfit for human consumption”, in the absence of such an opinion, the prosecution has failed to establish the requirements of Section 2 (1a)(f) of the Act (See ***Delhi Administration. v. Sat Sarup Sharma*, 1994 Supp (3) SCC**

324). Moreover, no evidence has been adduced by the prosecution to prove the offence under Section 16 (1) of the Act either before the trial court or the High Court.

- 6.** Therefore, the impugned order of conviction passed by the High Court is not sustainable for the aforementioned reasons. We set aside the same and uphold the order of acquittal passed by the trial court. Accordingly, the appeal stands allowed.

.....**J.**
(N. V. RAMANA)

.....**J.**
(SURYA KANT)

.....**J.**
(KRISHNA MURARI)

NEW DELHI;
JULY 30, 2020.