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Rajesh Kumar Vs. State

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Court : Delhi

Decided On : Jan-14-2004

Reported in : 109(2004)DLT913; 2004(73)DRJ384

Judge : R.S. Sodhi, J.

Acts : Prevention of Food Adulteration Act, 1954 - Sections 7 and 16(1)(1A)

Appeal No. : Criminal Revision Petition No. 361 of 1997

Appellant : Rajesh Kumar

Respondent : State

Advocate for Def. : V.K. Malik, Adv.

Advocate for Pet/Ap. : P.R. Thakur, Adv

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment and order dated 27.8.1997 of the learned Additional Sessions Judge arising out of the order dated 17.4.1997 of the learned Metropolitan Magistrate whereby the learned Magistrate held the petitioner guilty under Section 16(1)(1A) read with Section 7 of the Prevention of Food Adulteration Act and further vide order dated 19.4.1997

sentenced him to undergo RI for one year and to pay a fine of Rs. 3,000/- and in default of payment of fine to undergo further SI for three months. The learned Additional Sessions Judge vide order dated 27.8.1997 dismissed the appeal.

2. Learned Counsel for the petitioner does not challenge the order of conviction. He confines his arguments to the question of sentence only. He submits that although minimum sentence is prescribed under the Act, however, the Supreme Court has, in Braham Dass v. State of Himachal Pradesh, : 1988 CriLJ1816 and Haripada Das v. State of West Bengal AIR 1999 SC 1482, held that a sentence below the minimum prescribed can also be passed in the facts and circumstances of a case. He also relies upon a large number of judgments in B. Uma Maheshwara Rao v. State of A.P. 2003 (3) FAC 78; Gurdev Singh v. U.T., Chandigarh, 2003 (1) FAC 105; Sher Singh v. State of U.T., Chandigarh 2003 (1) FAC 210; Mohinder Lal v. State of Haryana 2003 (1) FAC 70; Ishwar Singh v. The State of Haryana 1994 (1) RCR 161; Sat Pal v. State of Haryana 1998 (1) RCR (Crl.) 75; Manoj Kumar v. State of Haryana 1998 (1) RCR (Crl.) 563; Chander Bhan v. State of Haryana 1996 (1) RCR 125; Des Raj v. State of Haryana 1996 (1) RCR 689 and Nand Lal v. State of Haryana 1992 (1) PFA 180.

3. Learned Counsel for the petitioner submits that the offence was committed in the year 1991 and the petitioner has already suffered the rigours of trial for 13 years. He submits that the petitioner has already undergone imprisonment for nearly two months and has been on bail since 4.9.1997 and that there has been no complaint about his having belied the trust bestowed upon him by this Court. He submits that the petitioner is also not a previous convict and has by now assimilated in the mainstream of the society as a useful citizen, thereforee, no useful purpose would be served in requiring him to undergo the remaining portion of his sentence at this belated stage. He prays that the sentence of imprisonment be reduced to the period already undergone.

4. Having heard learned Counsel for the parties, I am of the view that ends of justice would be met if the order of conviction is upheld and sentence of imprisonment of the petitioner is reduced to the period already undergone. It is ordered accordingly.

5. With this modification, Criminal Revision No. 361 of 1997 is disposed of. The bail bond and the surety shall stand discharged.

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