

Subhash Chand Vs. State

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Court : Delhi

Decided On : May-06-2004

Reported in : 112(2004)DLT98

Judge : R.S. Sodhi, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 2, 16(1), 16(1A) and 7

Appeal No. : Criminal Revision Petition 214 of 2002

Appellant : Subhash Chand

Respondent : State

Advocate for Def. : S. Kohli, Adv.

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

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment and order dated 18.3.2002 of the learned Additional Sessions Judge in CrI.A.No. 3/2002, whereby the learned Judge has upheld the judgment dated 22.1.2002 of the Metropolitan Magistrate convicting the petitioner for violation of Sections 2(ia), (a), (c), (j), (m) read with Section 16(1), (1A) and Section 7 of the PFA Act and vide separate

order sentenced him to undergo R.I. for one year with a fine of Rs. 3,000/- and in default of payment of fine to further undergo R.I. for two months.

2. With the assistance of the learned Counsel for the petitioner as also learned Counsel for the respondent I have gone through the record of the case as also the judgment under challenge. Learned Counsel states that he is not in a position to challenge the order of conviction. I, therefore, confirm the order of conviction. However, on the question of sentence, it is argued by the learned Counsel 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 (cri.) 75; *Manoj Kumar v. State of Haryana* 1998 (1) RCR (Cri) 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 1989 and the petitioner has already suffered the rigours of trial for 15 years/He submits that the petitioner has already undergone imprisonment for about eight months and has been on bail since 24.10.2002 and that there has been no complaint about his having belied the trust bestowed upon him by this Court. He also submits that the fine of Rs. 3000/- has already been deposited by the petitioner. He further submits that the petitioner is not a previous convict and has by now assimilated in the mainstream of the society as a useful citizen, therefore, 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. Learned Counsel for the State has no objection to the sentence of imprisonment of petitioner being reduced to the period already undergone if the fine imposed is enhanced.

4. Having heard Counsel for the parties and in view of the totality of circumstances of the case, I deem it appropriate to reduce the sentence of imprisonment to the period already undergone while upholding the conviction and enhancing the fine from Rs. 3000/- to Rs. 10,000/-. The amount of Rs. 3000/- as fine has already been deposited by the petitioner. The balance amount of Rs. 7000/- shall be deposited by the petitioner within a period of two weeks from today, failing which the sentence awarded by the trial Court shall come into effect.

5. With this modification, Criminal Revision Petition No. 214 of 2002 is disposed of. The bail bond and the surety shall stand discharged.

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