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Court : Delhi

Decided On : Oct-09-2001

Reported in : 94(2001)DLT708

Judge : R.S. Sodhi, J.

Acts : Prevention of Food Adulteration Act, 1954 - Sections 7 and 16

Appeal No. : Criminal Revision No. 501 of 2000

Appellant : Babu Ram and anr.

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 2.11.2000 of the learned Additional Sessions Judge dismissing Crl.A. No. 40/99 and reducing the sentence awarded to petitioner No. 1 from 9 months' RI to six months' RI while maintaining the fine imposed on the petitioners by the learned Metropolitan Magistrate under Section 7/16 of the Prevention of Food Adulteration

Act (for short 'the Act') while maintaining the fine as awarded on appellants Nos. 1 and 2.

2. It is argued by learned Counsel for the petitioner that the sample of the Chenna was lifted on 28.10.1996 while the complaint was filed on 26.3.1997 and the report from the Central Food Laboratory was received on 8.5.1997. Consequently, the sample that was lifted lost its values and was not capable of being analysed. Learned Counsel for the State, on the other hand, submits that this question has been adverted to by the Courts below and found, as a matter of fact, that the sample had not deteriorated because sufficient amount of preservative had been added and, thereforee, the report of the Central Food Laboratory, which does not state that the sample lifted was not fit for analysis, ought to be read as having been properly preserved. He draws my attention to a judgment of the Supreme Court in Inderjeet v. State of Uttar Pradesh and Anr., : 1979 CriLJ1410 and Om Prakash v. Delhi Administration and Anr. : 1976 CriLJ197 , where the Court held that if sufficient strength of formalin had been added to the sample of Chenna, it could have been preserved for a much longer time. Once the Central Food Laboratory to whom the sample of Chenna was sent for re-examination found that the same was in order and could have been analysed, there being no evidence to the contrary, the judgment of the Supreme Court in Inderjeet's case (supra) would apply on all fours. I, thereforee, find no fault with the order of conviction and confirm the same.

3. However, the learned Counsel argues on the question of sentence and submits that this is a case where sample was lifted on 28.12.1986. The petitioner has already suffered the ordeal of trial for 15 years and has also been incarcerated for about 12 days. He further submits that the petitioner is suffering from neuropsychiatry problem and, thereforee, would not be in a position to face the rigours of imprisonment any further and has also closed down his business, no useful purpose would be served in requiring him to undergo remaining portion of sentence at this belated stage.

4. Learned Counsel for the petitioner has drawn my attention to the judgment of the Supreme Court in Braham Das v. The State of Himachal Pradesh 1988 (II)

FAC 13, where the Supreme Court inspire of minimum sentence having been imposed, reduced the sentence of imprisonment to period already undergone while sustaining the fine Along with the default sentence. Learned Counsel for the State, in view of the said judgment of the Supreme Court, has no objection to the sentence being reduced to that already undergone.

5. Having heard learned Counsel for the parties and in view of what has been stated by learned Counsel for the State, I am of the view that the ends of justice would be met if the sentence of imprisonment of the petitioner is reduced to that already undergone. I order accordingly.

6. With this modification, Criminal Revision No. 501/2000 is disposed of.

7. The petitioner is on bail. His bail bond and the surety shall stand discharged.

Revision disposed of.

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