

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1585 OF 2009

CHANDRABHAN

...APPELLANT(S)

VERSUS

STATE OF CHHATTISGARH

...RESPONDENT(S)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Chhattisgarh at Bilaspur in Criminal Revision No.136 of 1997, dated 20.08.2008. By the impugned judgment and order, the High Court has partly modified the judgment and order of the learned Additional Sessions Judge passed in Criminal Appeal No.114/92 dated 03.02.1993 whereby the learned Additional Sessions Judge has affirmed the order of conviction and sentence passed by the Trial Court in CC No.277/82 dated 07.01.1992.

2. The brief facts of the case are as follows:

The appellant was the owner of a shop named Hira Traders located at Bhatapara. The complainant was posted as Food Inspector in the State Level Food Flying Squad, Bhopal. On 23.12.1981, the complainant, in the presence of the appellant, conducted an inspection at the appellant's shop. The complainant, on suspicion of adulteration in the peppermint candies stored in the shop, purchased 900 grams of the same. Three sealed samples of the peppermint candies were prepared. One bag was sent to the Public Analyst, Government of Madhya Pradesh and two bags were deposited with the Local Health Authority, Raipur. The Public Analyst's report stated that the said sample was contaminated. Therefore, on 19.04.1982, the complainant filed a complaint against the appellant before the Trial Court.

3. On the basis of the said complaint, the Trial Court framed charges against the appellant under Section 7 read with Section 16 of the Prevention of Food Adulteration Act, 1954 (for short, "the Act") to which the appellant pleaded not guilty. Consequently, the case was committed to trial.

4. The prosecution examined four witnesses. While no evidence was adduced by the defense, the appellant's statement was recorded under Section 313(1) (b) of the Code of Criminal Procedure (for short, "the Code") wherein he denied the prosecution's case.

5. The Trial Court considered the evidence on record as also the arguments of the parties and observed that the appellant had admitted that the seized peppermint candies were being manufactured and sold in his shop. The Trial Court rejected the appellant's contention that proper and necessary

procedures had not been followed by the complainant and held that the report of the Public Analyst was clear and reliable and conclusively proved the fact that the appellant was manufacturing and selling adulterated and sub-standard peppermint candies. Therefore, *vide* judgment and order dated 07.01.1992, the Trial Court convicted the appellant and sentenced him to simple imprisonment for a period of one year and a fine of Rs.1000/- for the offence under Section 7 read with Section 16 of the Act.

6. Aggrieved by the said conviction and sentence, the appellant approached the learned Additional Sessions Judge in Criminal Appeal No.114 of 1992. *Vide* its judgment and order dated 03.02.1993, the learned Additional Sessions Judge re-appreciated the entire evidence on record and observed that the report of the Public Analyst proved that the peppermint candies seized from the appellant's shop contained non-permitted colouring

and were of inferior quality. The learned Additional Sessions Judge further rejected the appellant's contention that the complainant had not followed necessary and proper procedures and that the delay in forwarding the Public Analyst's report to the appellant was fatal to the prosecution's case. Therefore, the learned Additional Sessions Judge confirmed the judgment and order passed by the Trial Court.

7. Aggrieved by the judgment and order so passed by the learned Additional Sessions Judge, the appellant approached the High Court in Criminal Revision No.136 of 1997 on the grounds that the complainant had failed to follow necessary and proper procedure while seizing the said samples from the appellant's shop and that the Courts below had erred in convicting the appellant on the basis of inadmissible evidence.

8. By the impugned judgment and order dated 20.08.2008, the High Court re-appreciated the entire evidence on record and observed that the testimonies of the prosecution witnesses were sufficient to establish the appellant's guilt and therefore, his conviction was sustainable in law. The High Court further noticed the serious nature of the offence, given the fact that the appellant had been himself manufacturing the adulterated peppermint candies and had knowingly added non-permitted colouring to the said peppermint candies. Therefore, the High Court upheld the conviction of the appellant. However, in light of the fact that the case against the appellant dated back to the year 1982, the sentence imposed on him was modified to simple imprisonment for a period of three months and a fine of Rs.10,000/-, with permission to set-off the period already undergone against this sentence.

9. Aggrieved by the judgment and order passed by the High Court, the appellant is before us in this appeal.

10. It is submitted in office report dated 02.09.2015 that Shri D.B. Vohra, learned counsel for the appellant, has unfortunately expired. Therefore, in the interest of the expeditious and just disposal of this appeal, we have requested learned counsel, Shri Akshat Shrivastava, to assist this Court in the capacity of *amicus curiae*.

11. We have heard learned counsel for parties to the *lis*.

12. After going through the judgment and order passed by the High Court as well as the Courts below and having considered the submissions made before us, the appellant's case fails to convince us. The Courts below have made concurrent findings of guilt and we concur with the same. The appellant's guilt has been

conclusively established by the testimonies of the prosecution witnesses and the report of the Public Analyst.

13. On the question of sentence, we find that, given the seriousness of the offence committed by the appellant, the sentence imposed on the appellant cannot be further reduced.

14. In light of the aforesaid, we are of the considered opinion that the judgment and order passed by the High Court does not suffer from any infirmity whatsoever and does not require our interference.

15. Accordingly the appeal stands dismissed.

16. We direct the police authorities to take appellant into custody within a period of one month from the date of this order to serve out the remaining period of the sentence.

17. We direct the Registry to pay a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred) to the learned *amicus curiae*.

Ordered Accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(V.GOPALA GOWDA)

.....J.
(AMITAVA ROY)

NEW DELHI
SEPTEMBER 03, 2015.

ITEM NO.14

COURT NO.1

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 1585/2009

CHANDRABHAN

Appellant(s)

VERSUS

STATE OF CHHATISHGARH

Respondent(s)

(with office report)

Date : 03/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Mr. Akshat Shrivastava, Adv. (Amicus Curiae)
Mr. Rohin Oza, Adv.
Mr. Yogesh Tiwari, Adv.

For Respondent(s) Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the
signed order.

Pending application, if any, stand
disposed of.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

(Signed order is placed on the file)