

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2024
(@SLP (CRL.) No(s). 4706/2019)

MAHESH CHANDER @ MAHESH CHAND APPELLANT(S)

VERSUS

The STATE OF HARYANA RESPONDENT(S)

O R D E R

Leave granted.

Being aggrieved by the order dated 18.03.2019 passed in CRR-3908/2013 (O&M) by the High Court of Punjab and Haryana by which, the High Court sustained the challenge to the judgment dated 04.12.2013 of the Appellate Court which in turn had affirmed the judgment of conviction dated 16.08.2011 and order of sentence dated 18.08.2011 of the Trial Court holding the appellant guilty and sentencing him to undergo rigorous imprisonment for a period of three months with fine of Rs.10,000/- (modified from rigorous imprisonment of six months and fine of Rs.1000/- and in default of payment of fine to undergo rigorous imprisonment for one month) under Section 7 read with Section 16 of the Prevention of Food Adulteration Act, 1954 (in short the "Act"), the appellant is before this Court.

We have heard learned counsel Ms. Prerna Robin for the appellant and Ms. Alka Agrawal learned counsel for the respondent-State of Haryana and perused the material on record.

During the course of submission, learned counsel for the appellant drew our attention to the aforesaid Sections as well as Rule 28 of the Prevention of Food Adulteration Rules, 1955 (hereinafter referred to as "Rules", for short) to contend that tartrazine is a permissible food colour under the provisions of the Rules and it has been recorded in evidence that the appellant herein, who is a retailer, was having an extent of a total quantity of 15 kg of dal moong dhuli with the aforesaid tartrazine yellow colour. The Laboratory report also evidenced the fact that the sample of 750 grams of dal moong dhuli have a quoting of the synthetic food colour tartrazine which is a permitted colour. Therefore, she submitted that the very invocation of the provisions of the Act and the Rules was erroneous and consequently, the conviction and sentence is contrary to the provisions of the Act and the Rules.

Learned counsel for the appellant also submitted that the appellant is aged about sixty years and out of three months, he has already spent one month and eight days in jail, which has caused great prejudice to him as the conviction was unjustified. That presently he is on bail. In the circumstances, she urged that the impugned judgments and order(s) may be set-aside and the conviction of the appellant may be set aside.

Per contra, learned counsel for the respondent-State supported the impugned judgments and order(s) and submitted that there is no merit in this appeal.

We have considered the submissions advanced at the Bar in light of the facts on record as well as in light of Rule 28 of the Rules. For ease of reference, the same is extracted as under:

"28. Synthetic food colours which may be used.

- No synthetic food colours or a mixture thereof except the following shall be used in food:

[S. No.]	Colour	Common name	Colour Index (1956)	Chemical Class
(1)	(2)	(3)	(4)	(5)
1.	Red	Ponceau 4R Carmoisine Erythrosine	162551472045430	AzoAzoXanthene
2.	Yellow	Tartrazine Sunset Yellow FCF	1914015985	PyrazoloneAzo
3.	Blue	Indigo Carmine Brilliant Blue FCF	7301542090	IndigoidTriarylmethane
4.	Green	Fast green FCF	42053	Triaryimethane.]

[Substituted by G.S.R. 727 (E), dated 23rd August, 1990 (w.e.f. 23-8-1991).]"

On a reading of the Rule, it is evident that the tartrazine Sunset yellow FCF which is yellow in colour is a permitted synthetic food colour, which could be applied to food. In the instant case, the sample of 750 grams of dal moong dhuli, which was tested in the laboratory also noted that synthetic food colour of tartrazine was used on the said sample and consequently, in the total quantity of 15 kgs. which was found in the possession of the appellant for sale. Since Rule

29 permits the said food colour, the conviction of the appellant under Section 16 is erroneous. Therefore, the order of the High Court sustaining the order of the First Appellate Court as well as the Trial Court convicting the appellant for the aforesaid offences is set-aside.

Consequently, the appellant's (who was in jail for one month and eight days and presently he is on bail) conviction and sentence is set aside. His bail bonds and sureties are discharged.

The appeal is allowed in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

....., J.
(B.V. NAGARATHNA)

....., J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
AUGUST 20, 2024

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4706/2019
(Arising out of impugned final judgment and order dated 18-03-2019
in CRR No. 3908/2013 passed by the High Court of Punjab & Haryana
at Chandigarh)

MAHESH CHANDER @ MAHESH CHAND

Petitioner(s)

VERSUS

The STATE OF HARYANA

Respondent(s)

Date : 20-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Ms. Prerna Robin, Adv.
Ms. Shaveta Sanghi, Adv.
Mr. Aditya Sanghi, Adv.
Mr. Lokesh Sharma, Adv.
Mr. B. Shraavanth Shanker, AOR
Ms. Grahita Agarwal, Adv.
Mr. B. Yeshwanth Raj, Adv.
Ms. Preeti Shukla, Adv.

For Respondent(s) Ms. Alka Agrawal, Adv.
Ms. Shruti Agrawal, Adv.
Dr. Monika Gusain, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(RAM SUBHAG SINGH)
COURT MASTER (NSH)

(Signed order is placed on the file)