

# Madan Lal Agrawal vs State Of Chhattisgarh on 23 February, 2022

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HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 238 of 2022

1. Madan Lal Agrawal S/o Rajaram Agrawal, aged about 60 years, R/o Ram Mandir Maidan, Ambikapur, P.S. & P.O. Ambikapur, District Surguja, C.G.
2. Harsh Kumar Goyal S/o. Vijay Kumar Goyal, aged about 40 years, R/o. Mahadev Para, South Shrigarh, Surguja, P.S. & P.O. Ambikapur, District Surguja, C.G.
3. Subhash Chand Goyal S/o. Vedprakash Goyal, aged about 50 years, R/o. Baramroad, Sangamchauk, Ambikapur, P.S. & P.O. Ambikapur, District Surguja, C.G.

----- App

versus

1. State of Chhattisgarh through Sarita Patel and other Food Safety Officer Food and Drug Administration Officer Raigarh, P.S. & P.O. Raigarh, District Raigarh, C.G.
2. State of Chhattisgarh through District Magistrate and Adjudicating Officer Raigarh P.S. & P.O. Raigarh, District Raigarh, C.G.
3. Bundram Sao S/o. Janak Ram Sao, aged about 45 years, Sao Mohalla Kodatarai, Tahsil Pussour, District Raigarh, C.G.

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23/02/2022 Ms. Priyanka Mehta, Advocate for the appellants.

Ms. Binu Sharma, Panel Lawyer for the State.

Heard on admission.

The appeal is admitted for hearing.

Call for the records of the trial Court.

Also heard on I.A. No. 01/2022, application for suspension of sentence and grant of ad-interim stay.

This appeal has been filed under Section 71 (6) of Food Safety and Standards Act, 2006 against the judgment dated 26.11.2021 passed by Appeal Tribunal (Food Safety Appeal Tribunal)/Sessions Judge, Raigarh, District Raigarh (C.G.) in Criminal Appeal No. 67/2020 whereby the order dated 24.02.2020 passed by the Additional District Magistrate and Adjudicating Officer, Raigarh, District Raigarh (C.G.) in Case No. 39/B-121/2018-19 has been upheld.

By the order dated 24.02.2020, the appellants stand convicted and sentenced of fine as under:

Conviction	Sentence
Under Section 52 of Food Safety and Standards Act, 2006	Fine of Rs.3,00,000/-

One of the grounds raised by appellants in the memo of appeal is that the sample of alleged packet of semolina (Chetak Suji) was taken by respondent No.1 from grocery shop of respondent No.3 on 21.11.2017 whereas complaint was filed on 05.12.2018 which is after one year and therefore in view of Section 77 of Food Safety and Standards Act, 2006, the Adjudicating Authority was not justified in taking cognizance of the offence. It is submitted by learned counsel for the appellant that no any extension has been granted by Commissioner of Food Safety by writing the reasons therefor.

Considering the material available on record, in particular the provisions of Section 77 of Food Safety and Standards Act, 2006, taking of cognizance of offence by Adjudicating Authority is also under challenge, fine sentence imposed upon the appellants was suspended vide order dated 04.02.2021 by Appellate Authority/Sessions Judge as per Annexure-A/3, and that disposal of this appeal is likely to take some time, without further commenting on merit, I am of the opinion that present is a fit case to suspend the fine sentence imposed upon the appellants.

Accordingly, the application (I.A. No. 01 of 2022) is allowed. It is directed that the fine sentence imposed upon appellants shall remain suspended during the pendency of this appeal on each of them furnishing a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the trial Court. They shall appear before the Registry of this Court on 04th March, 2022 and thereafter shall appear before the trial Court on a date to be given by the Registry and shall continue to appear there on all such dates as are given to them by the said Court till disposal of this appeal.

Certified copy as per rules.

List this appeal for final hearing in due course.

Sd/-

(Gautam Chourdiya) Judge vatti