

State Of Chhattisgarh vs Properietor - Karnail Singh on 1 December, 2022

Author: Rajani Dubey

Bench: Rajani Dubey

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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 1955 of 2022

State of Chhattisgarh Through:- Food Safety Officer, Mr.
Rakhi Thakur, Food & Drug Administration, Mahasamund,
District : Mahasamund, Chhattisgarh

---- Petitioner

Versus

Properietor - Karnail Singh, S/o Harbansh Singh, Aged
About 46 Years, Owner M/s Jai Babe The Dhaba, N.H. 53,
Village Ghodari, Tehsil Mahasamund District-
Mahasamund, Chhattisgarh, R/o Dindayal Upadhyay
Nagar, Birkoni, Mahasamund, Tehsil & District
Mahasamund, Chhattisgarh.

---- Respondent

For Petitioner/State : Mr. Alok Nigam, G.A. Hon'ble Smt. Justice Rajani Dubey Order on Board
01.12.2022

1. Heard on I.A. No. 01/2022 which is an application seeking condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the submissions made by counsel for the petitioner, I.A. No. 01/2022 deserves to be and is accordingly allowed and delay of 83 days in filing the petition is hereby condoned.
3. Also heard on application for grant of special leave to appeal filed under Section 378(3) of the Cr.P.C.
4. Learned counsel for the State submits that in the present case there were specific evidence led by the prosecution which proved the guilt of the respondent but the learned trial Court has acquitted

the respondent on technical ground. He further submits that prosecution has proved this fact that in one report vide Ex.P-9, sample packet was found adulterated but the learned trial Court considering the other report vide Ex.P-11, has acquitted the respondent which is liable to be set aside, therefore, application may be allowed and special leave may be granted to the petitioner and this petition may be registered as acquittal appeal.

5. Heard counsel for the petitioner and perused the impugned judgment and the document annexed with this petition.

6. This petition has been filed seeking leave to appeal against the judgment and order dated 25.05.2022 passed by the learned Chief Judicial Magistrate, Mahasamund, District- Mahasamund in Criminal Case No. 2043/2019 whereby the learned trial court has acquitted the respondent of the charges under Sections 59(i) & 63 of Food Safety and Standards Act, 2006.

7. Learned trial Court has meticulously examined the entire evidence on record and found in para 15 of its judgment that Reports vide Exs. P-9 & P-11 are contradictory to each other but report (Ex.P-11) of Excellent Bio Research Solution, Jabalpur is in favour of the respondent and on this ground, trial Court has acquitted the respondent of the charges under Sections 59(i) & 63 of Food Safety and Standards Act, 2006.

8. The finding recorded by the learned Court below appears to be based on proper appreciation of oral and documentary evidence. The view which has been taken by the learned trial Court seems to be plausible and possible view and in the absence of any patent illegality or perversity in the view taken by the learned court below, merely because another view is also possible, this Court does not incline to interfere in the impugned judgment. Therefore, considering the limited scope of interference against judgment of acquittal, this Court does not consider present to be a fit case for grant of leave to appeal.

9. Accordingly, the instant petition for grant of leave to appeal is dismissed.

Sd/-

(Rajani Dubey) Judge Ruchi