

Devendra vs State Of M.P. And Anr. on 17 November, 2022

Author: Rajendra Kumar Verma

Bench: Rajendra Kumar Verma

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE RAJENDRA KUMAR (VERMA)
ON THE 17th OF NOVEMBER, 2022

CRIMINAL REVISION No. 566 of 2012

BETWEEN:-
DEVENDRA S/O BHAGWAN DAS BHORHARI,
AGED ABOUT 39 YEARS, OCCUPATION:
BUSINESS YASH KIRANA, 12/2, KACHI
MOHALLA INDORE (MADHYA PRADESH)

(SHRI MURTUZA BOHARA, LEARNED COUNSEL FOR THE
APPLICANT)

- AND
1. STATE OF M.P. THROUGH DISTT. MAGISTRATE
INDORE (MADHYA PRADESH)
 2. GAUTAM BHATIA KHADYA NIRIKSHAK,
INDORE NAGAR PALIK NIGAM (MADHYA
PRADESH)

(SHRI SUDHANSHU VYAS, LEARNED PANEL LAWYER FOR
RESPONDENT NO.1/STATE)

(SHRI MANU MAHESHWARI, LEARNED COUNSEL FOR THE
RESPONDENT NO.2)

This revision coming on for orders this day, the following:

ORDER

Learned counsel for the parties submit that this matter cannot be resolved with the help of Mediator.

Heard finally.

The applicant has been convicted for offence under Section 7(1) r/w 16 (1)(A)(1) of Food Adulteration Act, 1954 (for short the Act of 1954) by JMFC, Indore vide judgment dated 24.11.2011 passed in Criminal Case No.25281/2011 and sentenced to undergo 6 months RI with fine of Rs.1000/- and in default of payment of fine two months R.I. for misbranding and adulteration. The conviction and sentences thus imposed were affirmed in Criminal Appeal No.700/2011 vide judgment dated 29.03.2012 by XIIth ASJ, Indore. Against the impugned judgment of appellate Court, this criminal revision has been filed.

2. During the course of submission, learned counsel for the applicant has cited the judgment of Apex Court in the case of Nemi Chand vs State of Rajasthan (2016) 2 AICLR 479 in which it has been considered that Food Adulteration Act, 1954 has been replaced with Food Safety and Standards Act, 2006 and later Act seeks to provide benefit to the accused persons inasmuch as the jail sentence is not provided therein and such beneficial registration can be applied with retrospective effect. In the Apex Court judgment, the accused- Nemi Chand/appellant was convicted under Section 7/16 of the Act of 1954 for committing offence of misbranding and was sentenced to undergo six months RI with fine of Rs.1000/- with default imprisonment sentence.

3 . The Apex Court while considering the beneficial legislation as promulgated at a later date afforded the benefit the new legislation imposing penalty of Rs.50,000/- to the accused/applicant.

4. Learned counsel for the applicant seeks equivalent treatment to the applicant in support of the case in hand.

5. Considered.

6 . Learned counsel for the Respondent/State was also heard and he submits that this case pertains not only to misbranding, but also adulteration, and therefore appropriate action be taken against the applicant, if this Court were to rely on the citation of Apex Court in the case of Nemi Chand (supra).

7. Considered.

8 . In view of the citation of Apex Court which squarely covers the present case, it would be in propriety to substitute the sentence of imprisonment and fine with penalty of Rs.50,000/- in respect of offence for misbranding and adulteration. The applicant shall deposit this amount before the trial Court within a period of two months. On depositing such amount, his bail bonds shall be discharged.

9. Thus, it is specifically directed that copy of this order be sent to trial Court with a direction that if the applicant does not deposit Rs.50,000/- within a period of two months from today, then the order of appellate Court shall be revived and he shall suffer the jail sentence as already imposed by the appellate Court. On deposition of Rs.50,000/- by the applicant, the jail sentence and fine amount as prescribed in the impugned order shall stand quashed and returned to applicant. This criminal revision is disposed off with conviction having been maintained but partly allowed in terms of sentence.

10. At this point of time, learned counsel for the applicant submits that he undertakes to deposit penalty of Rs.50,000/- on or before 17th January, 2023. A copy of this order be send to the concerned Court for necessary compliance.

Certified copy as per rules.

(RAJENDRA KUMAR (VERMA)) JUDGE RJ