

Mukesh Gupta vs The State Of Madhya Pradesh on 16 May, 2024

Author: Prem Narayan Singh

Bench: Prem Narayan Singh

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH
ON THE 16 th OF MAY, 2024
CRIMINAL REVISION No. 994 of 2021

BETWEEN: -

MUKESH GUPTA S/O GORELAL GUPTA, AGED ABOUT 40
YE A R S , OCCUPATION: BUSINESS SUBASH CHOWK
PACHOR, TEH. PACHOR (MADHYA PRADESH)

(SHRI ANSHUL SHRIVASTAVA, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THR. VISHNU
PRASAD YADAV FOOD SAFETY OFFICER RAJGARH
(MADHYA PRADESH)

(SHRI GAURAV RAWAT, DY. GOVT. ADVOCATE)

This revisions coming on for orders this day, t h e cou
following:

ORDER

With the consent of both the parties, the matter heard finally.

1. This criminal revision has been filed under Section 397/401 of the Code of Criminal Procedure, 1973 by the petitioner being aggrieved by the judgment dated 16.03.2021, passed by the learned Additional Sessions Judge, District Rajgarh, in Cr.A. No.234/2018, whereby learned Judge has dismissed the appeal by affirming the order passed by the learned JMFC, District Rajgarh, in Criminal Case No. 767/2013, whereby the petitioner has been convicted under Section 59(i) of Food Safety and Standards Act, 2006 (hereinafter referred to as 'the Act') in violation of Sections 26(2)(i) of the Act and sentenced to undergo four months R.I. with fine of Rs.5000/-.

2. The petitioner has preferred this criminal revision on several grounds but during the course of arguments, learned counsel for the petitioner did not press this revision on merits and not assail the finding of conviction part of the judgment. He confines his argument on the point of sentence only and prays that since the petitioner has already undergone 16 days in jail incarceration, his sentence

be reduced to the period already undergone. It is further submitted that the petitioner deserves some leniency as the petitioner already suffered the ordeal of the trial since 2011 i.e. for a period of more than 13 years. It is further submitted that this petition be partly allowed and the sentence awarded to the petitioner be reduced to the period already undergone by enhancing the fine amount.

3. Learned counsel for the State on the other hand supports the impugned judgment and prays for dismissal of this revision.

4. Having considered the rival submissions and on perusal of the record, the submission of the learned counsel for the petitioner appears to be just and proper.

5. However, the learned trial Court as well as the learned Appellate Court has not committed any error in appreciation of evidence available on record. Further, it is found that both the Courts below considered the evidence available on record and correctly found that the case of the prosecution is well supported by the documents and witnesses. Both the Courts below have well considered the material available on record, hence, no infirmity is found in the impugned order of conviction passed by both the Courts below, accordingly, the same is upheld.

6. So far as the sentence of the petitioner is concerned, after the lapse of almost 13 years, the submissions have been made by the petitioner regarding enhancement fine appear to be proper. The petitioner has suffered the ordeal of criminal case since 2011, this Court finds it expedient to partly allow this revision petition by affirming the conviction of the petitioner.

7. Accordingly, this revision petition is partly allowed and the sentence awarded to the petitioner is hereby reduced to the sentence already undergone by increasing the fine amount from Rs.5,000/- to Rs.25,000/- under Section 59(i) of the Act in violation of Section 26(2)(i) of the Act, to be paid by the petitioner within a period of two months from today. The fine amount, if already deposited as well as the compensation amount paid to the injured if any shall be adjusted. Since the petitioner is already on bail, his bail bond stands discharged. The bail bond of the petitioner shall be discharged after depositing the fine amount. If the petitioner fails to deposit the fine amount, he will suffer 1 month of simple imprisonment in default.

8. A copy of this order be sent to the concerned trial Court for necessary compliance.

Certified copy as per rules.

(PREM NARAYAN SINGH) JUDGE VD