

State of Haryana

Vs

Pawan Kumar

Criminal Appeal No. 1002 of 1997

(M. K. Mukherjee, k. T. Thomas JJ)

24.10.1997

ORDER

1. Leave granted.

2. For exposing for sale adulterated red chilli (lal mirch) powder the respondent was convicted under Section 16(1)(a) of the Prevention of Food Adulteration Act, 1954 and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs 1000 by a Magistrate. As the appeal preferred by him was dismissed by an Additional Sessions Judge, the respondent filed a revision petition in the High Court. While upholding the conviction, the High Court reduced the substantive sentence imposed upon the respondent to the period already undergone while maintaining the sentence of fine and imprisonment in default of payment thereof. The above order of the High Court is under challenge at the instance of the State of Haryana on the ground of sentence.

3. Having regard to the fact that the report of the Public Analyst, which was accepted by all the three courts below, that the sample of chilli powder was found to be unfit for human consumption, the High Court erred in reducing the substantive sentence to the period already undergone (which is less than a month) as the minimum substantive sentence to be imposed under the Act for the above offence is six months. However, considering the fact that since the offence was committed, more than 16 years have elapsed, we feel that the minimum sentence prescribed under the Act will meet the ends of justice. We, therefore, set aside the impugned order of the High Court only so far as it reduced the substantive sentence of the respondent to the period already undergone and direct that he shall suffer rigorous imprisonment for six months. The trial court will now take appropriate steps to apprehend the respondent and remand him to jail to serve out the sentence. The appeal is, thus, allowed.