

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Revision No.492 of 2003

Arun Kumar Mahatha Petitioner
Versus
The State of Jharkhand Opposite Party

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Sanjay Kumar, Adv.
For the State : Mr. Abhay Kr. Tiwari, Adv.

Through Video Conferencing

05/07.09.2021 Heard Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioner.

2. Heard Mr. Abhay Kumar Tiwari, learned counsel appearing on behalf of the opposite party - State.

3. Learned counsel for the petitioner has submitted that the impugned judgments convicting the petitioner for offence under Section 16 (1) (a) (ii) of Prevention of Food Adulteration Act, 1954 is *ex facie* perverse. He submits that as the allegation, the petitioner, in spite of expiry of license, was running the shop of food grains. Learned counsel submits that no food grain was seized from the shop and no independent witness has been examined to support the prosecution case. He also submits that no weighting machine or weight etc. or balance has been recovered. He submits that the petitioner has been convicted only on the basis of prosecution report which was supported by three witnesses. He submits that no food grain has been recovered even from the possession of any buyer or any other person. The learned counsel submits that the prosecution has not been able to prove the case beyond all reasonable doubt. He submits that in absence of any food grain or any article having been seized from the alleged place of occurrence, no case of Prevention of Food Adulteration Act for the alleged offence in the present case is made out against the petitioner.

4. Learned counsel has also submitted that there is material contradiction so far as P.W. 2 is concerned, who had stated in his deposition that it was food grain shop of another person namely Arjun Mahatha, which was raided and said Arjun Mahatha was already acquitted by the court of Sub - Judicial Magistrate, Bokaro in Prevention of Food Adulteration Act Case No.9 of 1990. Learned counsel submits that Arjun Mahatha has nothing to do with the shop of the petitioner and accordingly, P.W.2 has in fact not supported the case of the prosecution by naming Arjun Mahatha, whose shop was raided.

5. Learned counsel appearing on behalf of the opposite party-State, on the other hand, has submitted that there are concurrent findings recorded by the learned courts below and it has come in evidence that the petitioner was found running his shop although his license had expired. However, he does not dispute the fact that no recovery whatsoever was made from the shop of the petitioner including recovery of any food grains or recovery of any balance, weight etc. for measurement of food grain and admittedly no independent witness has been examined and the prosecution witness have not even disclosed the name of any independent person, who were said to be present at the place and time of occurrence.

6. Arguments are concluded.

7. Post this case on 13.09.2021 for Judgement.

(Anubha Rawat Choudhary, J.)