

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1831 OF 2010

TRILOK CHAND

APPELLANT(S)

VERSUS

STATE OF HIMACHAL PRADESH

RESPONDENT(S)

O R D E R

The appellant assails his conviction under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (for short "the Act") sentencing him to three months' imprisonment along with fine of Rs.500/-.

The Food Inspector visited the shop of the appellant and purchased three packets of rewari weighing 3 x 700 gms each on payment of Rs.60/- for which receipt was granted. The necessary formalities were thereafter complied with by the Food Inspector. The sample along with Form VI was sent to the public analyst who opined that the product was misbranded within the meaning of Section 2(ix)(k) punishable under the Act.

The appellant assailed his conviction unsuccessfully in appeal and his revision too has been dismissed by the High Court.

Learned counsel for the appellant made a very short submission before us relying on an order dated 10.03.2016

in Criminal Appeal No.214 of 2006. He submits that under Sections 51 and 52 of the Food Safety and Standards Act, 2006, the maximum penalty for sub-standard food or branding is only fine. He, therefore, submits that the conviction may be set aside on that ground.

Learned counsel for the State has opposed the appeal submitting that there are concurrent findings of misbranding in accordance with the law, as it then stood on the date of occurrence.

We have considered the respective submissions. In Criminal Appeal No.214 of 2006, this Court relied on a decision in T. Barai Vs. Henry Ah Hoe and Another [(1983) 1 SCC 177] wherein it was opined that since the amendment was beneficial to the accused persons, it could be applied with respect to earlier cases as well which are pending in the Court observing:

"22. It is only retroactive criminal legislation that is prohibited under Article 20(1). The prohibition contained in Article 20(1) is that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence prohibits nor shall he be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. It is quite clear that insofar as the Central Amendment Act creates new offences or enhances punishment for a particular type of offence no person can be convicted by such *ex post facto* law nor can the enhanced punishment prescribed by the amendment be applicable. But insofar as the Central Amendment Act reduces the punishment for an offence punishable

under Section 16(1)(a) of the Act, there is no reason why the accused should not have the benefit of such reduced punishment. The rule of beneficial construction requires that even ex post facto law of such a type should be applied to mitigate the rigour of the law. The principle is based both on sound reason and common sense. This finds support in the following passage from Craies on Statute Law, 7 th Edn., at pp. 388-89:

A retrospective statute is different from an ex post facto statute. "Every ex post facto law...." said Chase, J., in the American case of *Calder v. Bull* "must necessarily be retrospective, but every retrospective law is not an ex post facto law. Every law that takes away or impairs rights vested agreeably to existing laws is retrospective, and is generally unjust and may be oppressive; it is a good general rule that a law should have no retrospect, but in cases in which the laws may justly and for the benefit of the community and also of individuals relate to a time antecedent to their commencement: as statutes of oblivion or of pardon. They are certainly retrospective, and literally both concerning and after the facts committed. But I do not consider any law ex post facto within the prohibition that mollifies the rigour of the criminal law, but only those that create or aggravate the crime, or increase the punishment or change the rules of evidence for the purpose of conviction.... There is a great and apparent difference between making an unlawful act lawful and the making an innocent action criminal and punishing it as a crime."

In view of the same, the present appeal is allowed in part and the sentence imposed upon the appellant is modified by imposing a fine of Rs.5,000/- only, which

**shall be deposited within 30 days before the Trial Court.
On deposit of the amount, the bail bonds of the appellant
shall stand discharged.**

.....J.
[Navin Sinha]

.....J.
[Sanjiv Khanna]

**New Delhi;
October 01, 2019**

ITEM NO.106

COURT NO.13

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s).1831/2010

TRILOK CHAND

Appellant(s)

VERSUS

STATE OF HIMACHAL PRADESH

Respondent(s)

Date : 01-10-2019 This appeal was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE SANJIV KHANNA**

For Appellant(s) **Mr. Rupesh Kumar, AOR
Mrs. Pankhuri Shrivastava, Adv.
Mr. Pravesh Bahuguna, Adv.
Mr. Ananya Mohan, Adv.
Ms. Vizokenuo Shuya, Adv.**

For Respondent(s) **Mr. Pratishtha Vij, Adv.
Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Mr. Samarth Khanna, Adv.**

**UPON hearing the counsel the Court made the following
O R D E R**

**The appeal is allowed in part in terms of the signed
order.**

Pending application, if any, stands disposed of.

**(SANJAY KUMAR-I)
AR-CUM-PS
(Signed order is placed on the file)**

**(SAROJ KUMARI GAUR)
COURT MASTER**