

Ludhiana eatery owner gets five-month jail, fined ₹50, 000

The court dismissed the argument against the complainant food safety officer deposing against the convict by observing that joining of independent witnesses is not an absolute rule to sustain the conviction

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Test found 4.2cm-long hair strand in sample

The district court sentenced the owner of a Janta Nagar-based eatery to five-month imprisonment for selling adulterated milk cake. The court of chief judicial magistrate PS Kaleka also imposed a fine of ₹50,000 on the convict, Sushil Kumar of Unik Foods at Bhagwan Chowk in Janta Nagar, under Sections 26 and 59 of the Food Safety and Standard Act, 2006.

The matter dates back to October 31, 2015, when the complainant, Ravinder Pal Garg, a food safety officer, inspected the premises of Unik Foods and found 18 cardboard boxes each having four kilograms of milk cake meant for sale.

The complainant purchased 2 kg of milk cake from the accused for ₹250 against a proper receipt after making the contents homogeneous by mashing and mixing with a knife in the presence of witnesses. The payment receipt was signed by the accused, complainant and attested by witnesses. The sample was then divided into four equal parts and put into four plastic jars and 40 drops of Formalin 40% were added into each jar as preservative.

The chargesheet in the case was filed on August 22, 2017.

While pronouncing the order, the court relied on a report of Punjab food analyst, which said the sample contained a 4.2-cm long hair strand and tested positive for starch as an adulterant, and was, thus, substandard, misleading and unsafe for human consumption.

A similar report has been given by Referral Food Laboratory, Govt of India, Ghaziabad, after the accused requested for retesting of the sample. Though the lab did not find a hair strand, it found the sample positive for starch, and the Butyro refractometer reading (BRR) of the extracted fat at 40°C was 51.7 against the prescribed standard of 40 to 44, indicating the presence of foreign fat than the milk fat.

The court, however, stated that the contradiction regarding non-presence of hair in the sample in the report of the second lab did not hold any merit to the benefit of the accused.

“The said reports clearly proved that the milk cake in possession of accused for sale for human consumption was unsafe,” ruled the court.

In order to prove the allegations, Garg had himself stepped into the witness box and deposed against the accused. However, the defence counsel argued that no independent witness had been examined by the prosecution and the accused had been falsely implicated.

Dismissing the argument, the court said, “It is a known fact of Indian society that people generally are reluctant to come forward and depose before the court fearing unnecessary legal complications. They also dare not speak the truth to avoid personal enmity with the accused because they believe that their safety is not guaranteed...”

“The Supreme Court in a plethora of judgments has taken the view that joining of independent witnesses is not an absolute rule to sustain the conviction... and it is not proper for trial courts to reject the prosecution case on the ground of non-examination of independent witness if the case made out is otherwise true and acceptable, which, in the present case, is made out,” the court ruled.