

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 1672 of 2001
With
CRAN 1/2025, CRAN 2/2025

Narayan Chandra Gorai
Versus
The State of West Bengal & Another

For the Petitioner : Mr. Dilip Kumar Samanta, Adv.
Mr. Debpriya Samanta, Adv.
Mr. Prasun Mondal, Adv.
Ms. Asha Kumari Manjhi, Adv.

For the State : Mr. Debasish Roy, Ld. PP
Mr. Saryati Datta, Adv.
Ms. Eshita Dutta, Adv.

Heard on : 04.02.2026

Judgment on : 11.02.2026

Ajay Kumar Gupta, J:

In Re: CRAN 1 of 2025 and CRAN 2 of 2025

1. Sufficient grounds are available to explain the delay in filing the application for restoration of the matter after recalling of the order of dismissal for default dated 07.01.2019 as such delay is condoned. The Revisional application is restored to its file and number after recalling the order dated 07.01.2019. **CRAN 1 of 2025** and **CRAN 2 of 2025** are, thus, **allowed**.

In Re: CRR 1672 of 2001

2. The instant Criminal Revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') has been preferred by the petitioner, challenging the correctness, legality and propriety of the judgment and order dated 6th July, 2001 passed by the Learned Sessions Judge, Bankura in Criminal Appeal No. 5 of 1999 whereby and whereunder the Learned Judge affirmed the judgment and order dated 09.02.1999 passed by the Learned Sub-Divisional Judicial Magistrate, Bishnupur in case No. 136-C of 1997 under Sections 7(i)/16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (in short 'P.F.A. Act').
3. By the said judgment, the learned Trial Court found the petitioner guilty of committing the offence punishable under Sections 7(i)/16(1)(a)(i) of the P.F.A. Act and sentenced him to rigorous

imprisonment for six months and to pay a fine of Rs. 4,000/-, in default, to suffer further rigorous imprisonment of two months.

FACTS OF THE CASE: -

4. The brief facts, leading to the filing of this instant Criminal Revisional application, are as follows: -
 - a. The petitioner is the co-owner of a mustard oil mill, situated at Ganganidanga, Police Station- Sonamukhi.
 - b. On 5th April, 1997, around noon, the opposite party no. 2 herein, along with some others, visited the aforesaid oil mill, in the presence of the petitioner for inspection. The petitioner produced the food license for the mill upon being asked to do so.
 - c. The opposite party no. 2 subsequently served notice for collecting samples in the prescribed form, and filled 3, clean, dry bottles with 125 grams of mustard oil each, and purchased the collected oil for Rs. 12.75/-.
 - d. Thereafter, one of the samples was sent to the Public Analyst. The report, received on 25th July, 1997, indicated that the mustard oil sample was adulterated with sesame oil. Consequently, the Sub-divisional Food Inspector was directed to take necessary steps.
 - e. A complaint under sections 7(i)/16(1)(a)(i) of the P.F.A. Act was filed with the Learned Sub-divisional Judicial Magistrate, Bishnupur.

- f.** The prosecution relied upon 3 witnesses to establish its case, namely, Ishwar Ch. Jana (PW 1/Complainant), Gopal Chanda (PW 2/ GDA attached to BPHC), and Goutam Gorai. Apart from that, several exhibited documents, i.e., the sanction order, the report of the public analyst, and that of the Central Food Laboratory (CFL).
- g.** The Ld. Magistrate, after having considered the material on record, passed a judgment and order dated 9th February, 1999, convicting the petitioner and sentencing him as aforesaid.
- h.** Being aggrieved by the said order of conviction, the petitioner preferred an appeal, being Criminal Appeal No. 5 of 1999, before the Learned Sessions Judge, Bankura, wherein the Ld. Judge passed a judgment and order dated 6th July, 2001, affirming the judgment and order of conviction passed by the Ld. Magistrate. Hence, this revisional application.

SUBMISSION ON BEHALF OF THE PETITIONER: -

- 5.** Learned counsel appearing on behalf of the petitioner vehemently argued and submitted that at the time of admission of the revisional application, a stay order was granted, but, subsequently, after dismissal of the Revisional application for default by a Co-ordinate Bench, the accused person has been arrested. He has been in custody for more than two months, though he is innocent, and he has been falsely implicated into this case. The allegations are wholly

false and frivolous. The opposite party no. 2 has initiated a case against the present petitioner under Sections 7(i)/16(1)(a)(i) of the P.F.A. Act, and, subsequently, the Trial Court has convicted and sentenced the petitioner as aforesaid. The said conviction and sentence were further affirmed by the Learned Sessions Judge by dismissing the petitioner's appeal without considering and appreciating the case of the petitioner that he has not adulterated any other oil in the oil, namely, mustard oil.

6. It was further submitted that the Learned Court below failed to consider the statutory provisions stipulated in Section 20(2) of the P.F.A. Act.

7. Section 20(2) of the P.F.A. Act reads as follows:-

“No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.”

8. It was further submitted that the Learned Court below also failed to consider that the sole independent witness i.e. PW 3 has been examined by the prosecution, however, he did not support the seizure and, as such, he washed out the whole case by deposing in his examination-in-chief that he signed the seizure list as per the request of the officer without knowing the content.
9. It was further submitted that the Trial Court wrongly relied upon the public analyst's findings for its reasoning and failed to appreciate the

CFL Report appropriately. It is the statutory primacy of the CFL report that always superseded the report of the public analyst. Neither report can be relied upon. Firstly, the public analyst's report is not properly done, and the CFL report only indicates that the sample is positive without stipulating the percentage of adulteration, meaning thereby a mixture of two edible oils. The blend shall be a mixture of a conventional raw edible oil (i.e. to say, coconut oil, ground nut oil, mustard oil, sesame oil) obtained by mechanical, expression with a non-conventional edible refined oil (i.e. to say cotton seed oil, rice bran oil or soyabean oil or sunflower oil or safflower oil) in which the proportional conventional oil shall be not less than 20% by weight. The conventional oil in the blend shall conform to the respective standard prescribed by the Rules.

- 10.** Section 13(3) of the P.F.A. Act provides that the certificate issued by the Director of the CFL shall supersede the report given by the public analyst under sub-section (1) of Section 13 of the said Act. Therefore, even if the report was considered by the Trial Court, the benefits were in favour of the petitioners since the report did not disclose the percentage of mixture of two vegetable oils in the blended edible oil. Even though the Trial Court as well as Appellate Court considered the report of the public analyst (exhibit 8) superseding the CFL report

(exhibit 13). The CFL report specifically stated only positive results without mentioning the percentage of blend with sesame oil.

- 11.** In the event of an insufficient report, it is not evident how a person can be convicted by the Trial Court as well as the Appellate Court. Therefore, the Trial Court was not justified in convicting the petitioner, who is one of the partners of the firm dealing with mustard oil. The trial Court has acquitted the other accused person, who was one of the partners of the firm dealing with mustard oil. Such finding of the Learned Sessions Judge is wholly illegal, in view of the findings that the co-accused Smt. Kanika Garai is found not guilty and acquitted.
- 12.** Whereas the petitioner has been convicted on the same and similar facts and circumstances of the case. Therefore, conviction cannot be sustained in law, and the same is liable to be set aside only on the basis of a discrimination.
- 13.** It was finally submitted that the CFL report only identifies the presence of rancidity; it fails to specify the limit of red units found within the sample. Unrestored mustard oil is best consumed within four months, as it contains no preservatives. In the instant case, the CFL analysis was performed twelve months after the sample was drawn. Consequently, the oil sample became rancid purely because

its shelf life had already lapsed; the finding of rancidity is attributable solely to this delay.

14. The learned Court below failed to appreciate that there was a lack of strict compliance with the mandatory procedures prescribed under Rules 11 and 14-16 of the P.F.A. Rules by the opposite party no. 2.
15. Learned counsel further submitted that the bottles or jars or other containers containing samples for analysis shall be properly labelled and the parcels shall be properly addressed. Then only, the report would come fairly and correctly and shall not bear any consequences. Therefore, the petitioner must also be acquitted, similar to the other partner.

SUBMISSION ON BEHALF OF THE STATE: -

16. On the other hand, learned PP appearing on behalf of the State has contested the case and vehemently opposed the prayer of the learned counsel appearing on behalf of the petitioner and submitted that both the Trial Court and the Appellate Court has rightly considered the report of the public analyst which was full and final and it superseded the CFL report because CFL did not disclose the percentage of mixture of the mustard oil; only stipulated that the sample is found positive. Therefore, the Trial Court has rightly convicted the present petitioner and acquitted another lady partner, namely Smt. Kanika Garai, who had no role to play in the business

transaction, and she was not present at the time of seizure at the shop. Therefore, she has rightly been acquitted.

DISCUSSIONS, ANALYSIS AND CONCLUSION OF THIS COURT: -

17. This Court has carefully heard the arguments and submissions of the learned counsels for the respective parties. Upon perusal of the judgment and order passed by both the Courts below, it is revealed that both Courts relied upon the report of the public analyst and discarded the report of the CFL. Both the Courts have opined that the report of the public analyst supersedes the CFL report since the latter is an incomplete report. It does not indicate the mixture of the mustard oil. The report of the public analyst was very clear and specific about the test of mustard oil. It contains sesame oil in the sample collected from the establishment at the time of seizure.
18. This Court, however, is not satisfied with the seizure list since it was not proved by the independent seizure witness. He deposed that he was unaware of the seizure. The police officer asked him to sign the paper, and he signed the same without knowing the contents of the alleged seizure list.
19. The public analyst sent the report of the mustard oil sample to the L.H.A in Form III, being report No. 1167 (4) dated 19.05.1997, with the opinion that the sample was adulterated with sesame oil. A sanction order complaint was registered against the accused persons,

being the partners of the 'Shreedhar Oil Mill' for manufacturing for sale and exposing for sale and storing for sale and selling adulterated mustard oil under the label and declaration "Khanti Sarisar Taila" bearing the Brand "GOLAP PHOOL MARKA" for human consumption in the premises of the oil mill.

- 20.** It appears from the report of the Public Analyst Ext.8 that the sample examined at his end appeared to be mustard oil adulterated with sesame oil, showing 30.00 red units. Whereas the report of the CFL omitted the indication through red unit available in the Mustard oil. Simply mentioning that the Mustard oil is adulterated is not sufficient. There must be a specific averment towards the standard laid down for Mustard oil under the P.F.A Act and rules thereof. In such a situation, the Court cannot presume the percentage of the blend of Mustard oil. However, the Trial Court, without any cogent reason, presumed that he found the number of red units beyond the level of maximum tolerance on the basis of the report of the public analyst. Two reports of two difference nature, one discloses the red unit's percentage, and another report did not specify the red units, although both reports found adulteration. But this Court is not satisfied with the view taken by the Trial Court. It is very difficult to presume there must be a maximum or equal to the actual red units found in the sample without valid reasons or absence in the report. It

would create doubt about the mixture and its percentage. Accordingly, both reports have found some vital discrepancies which go to the root of the prosecution case and the entire story of adulteration to blend some substance of sesame oil in the container found totally doubtful and discrepancies in two reports. Both reports were varied with each other. In one report, it was found that the sample mustard oil contained a blend of sesame oil, indicated with red units, whereas in the other report, no red units or mixture percentage was indicated.

- 21.** Apart from the above, the seizure witness (PW 3) has washed out the whole case of the prosecution by not fully supporting when, how and in what manner the search and seizure was conducted. He deposed as per the instruction of the officer, he signed the seizure list, but he did not or does not know about the contents of the seizure list. In such a situation, the entire search and seizure is found to be suspicious.
- 22.** When doubt arises in the mind of the Court, it would not be proper to convict any accused persons; rather benefit of doubt always goes in favour of the petitioner. In view of the above facts and circumstances, the judgment and order passed by both the Trial Court and the appellate Court deserve to be set aside.

23. Accordingly, **CRR 1672 of 2001** is, thus, **allowed**. Connected applications, if any, are also, thus, disposed of.
24. The Judgment dated 06.07.2001 passed by the Learned Sessions Judge, Bankura and the judgment dated 09.02.1999 passed by the Learned Sub-Divisional Judicial Magistrate, Bishnupur are hereby set aside. Petitioner shall be set at liberty forthwith if he is not wanted in any other case, upon execution of a bond to the satisfaction of the Learned ACJM, Bishnupur which shall remain in force for a period of six months in terms of Section 437A of the CrPC corresponding to section 481 of the BNSS, 2023.
25. Trial Court Record, if any, is to be returned to the Learned Court below.
26. Let a copy of this Judgment and Order be sent to the Learned Courts below as well as to the respective correctional home by special messenger on urgent basis for information and taking necessary action.
27. Interim order, if any, stands vacated.
28. All parties will act on the server copies of this Judgment and Order uploaded on the official website of this Hon'ble High Court.

- 29.** Urgent photostat certified copy of this Judgment and Order, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)