

and the delay was condoned by this Court vide order dated 31.01.2019.

4. Succinctly facts of the case are that the Food Inspector had inspected the premises of M/s Mohan Sweets, near Gurudwara, Mauli Jagran, U.T. Chandigarh on 05.08.2005 at about 12:30 pm. The respondent was found in possession of 03 kgs of curd stored in a steel tray for public sale. The Food Inspector after disclosing his identity purchased 600 grams of curd. The same was equally divided in three equal clean glass bottles and 16 drops of formalin were added in each sample taken as preservative and the sample taken was duly labeled. One of the samples taken was sent to the Public Analyst in a sealed envelope. Remaining two sealed samples were handed over to the local health authority. On receipt of Public Analyst report, the sample sent was found to be adulterated as contents of sample contained 2.12% of milk fat against the minimum specified limit of 6.0% as laid down for curd without indication of class under item No.A.11.02.04 of PFA Rules, 1955. Thus, the respondent-accused was allegedly found to have committed an offence under Section 7 (i) and 16(1) (a) (i) of the Prevention of Food Adulteration Act, 1954. Accordingly the contempt was filed. *Prima facie*, case was found and the respondent was summoned. Thereafter, the trial commenced, however, on conclusion of the trial, the learned trial Court found that the charges alleged against the respondent-accused have not been proved and thus, acquitted the respondent-accused vide impugned judgment dated 01.09.2012.

5. Learned State counsel submits that the premises of the respondent-accused was inspected and after due compliance of the provisions of the PFA Act/Rules, the sample of the curd was taken, which was divided into 3 equal parts and thus, one of the samples taken was sent to the Public Analyst. On receipt of the Public Analyst report, the sample taken was found to be adulterated as the milk fat contents were found to be 2.12% of milk fat against

the minimum specified limit of 6.0% as laid down for curds under the PFA Rules. He further submits that the defence taken by the respondent-accused that the milk sample taken was of double toned milk is an afterthought and the same has been illegally relied upon by the trial Court. He further submits that as per provisions of the Act the standards of the buffalo milk as mentioned therein are applicable and hence, rejecting the Public Analyst report by the learned trial Court is totally illegal. It is submitted that as per provisions of PFA Rules, the minimum specified limit of the fat content is 6.0% whereas as per Public Analyst report it was found to be 2.12% of milk fat but the learned trial Court has miserably failed to appreciate the same and thus, illegally granted benefit of doubt to the respondent-accused. He further submits that the findings arrived at by the trial Court are perverse in nature and thus, there being perversity in the finding arrived at, the impugned judgment of acquittal deserves to be set aside by convicting the respondent-accused of the charges for which he was prosecuted.

6. Learned counsel for the respondent-accused has vehemently opposed the submissions made by learned State counsel and submits that the petitioner had been falsely implicated in the present complaint. It is submitted that the curd, of which the sample was taken, was made from double toned milk. He submits that for the double toned milk there is specified limit under the PFA Rules. He submits that as per specification of the curd prepared from the double toned milk the minimum required fat is 1.5% whereas from the Public Analyst report the same was found to be 2.12% and thus, the sample taken proved no adulteration as per provisions of the Act. He submits that there being no perversity in the conclusion arrived at by the Court below, the leave to appeal is liable to be declined.

7. Heard.

8. On hearing the learned counsel for the parties and from the perusal of the record it is deciphered that the Food Inspector had inspected the shop of the respondent-accused on 05.08.2005. The sample was taken from the curd kept for public sale. One of the samples taken was sent for the Public Analyst report and as per report, the milk fat content was found to be 2.12% against the minimum specified limit of 6% as per the Act. However, both the sides produced their respective evidence and on appreciation of the same, it is found that the milk used for preparing the curd was double toned milk whereas the standard applied by the prosecuting authority was of buffalo milk which was totally illegal. On the appreciation of evidence of DW-1, it has been found that the Food Inspector did not inquire about the quality of the milk used for preparation of the curd and there was no endorsement made on the documents at the time of taking of sample. The cross-examination of PW1 shows that it was admitted that the standards prescribed for curd prepared from cow milk, buffalo milk, mixed milk, skimmed milk and toned milk are different. As per specification for the curd made from the double toned milk, the requirement of the fat content is up to 1.5%. This is evident from the Public Analyst report that the fat content found from the sample taken were 2.12% which was evidently more than the specification required from the double toned milk, which is 1.5%. As per law settled, the parameters laid down for the appeal against acquittal and appeal from the conviction are different. As per law settled, the higher Court can intervene in the case of acquittal only in case there is a perversity in the finding arrived at by the lower Court. Simply for the reason that there is another view also possible, is not sufficient enough to reverse the acquittal arrived at by learned trial Court. As per criminal jurisprudence, every accused is presumed to be innocent until proven guilty. As per the law settled

by Hon'ble Supreme Court, once the accused is acquitted by the Court of law, there lies double presumption of innocence in his favour. Hence, an Appellate Court should not disturb the findings of acquittal arrived at by the trial Court in a cavalier manner and it is only in case of perversity of the findings, the Appellate Court should interfere in the acquittal order passed by the trial Court. In *Jafarudheen and others vs State of Kerala 2022 SCC Online SC 495*, it is held that Appellate Court has to be relatively slow in reversing order of trial Court rendering acquittal, relevant para of the same reads thus:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

9. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court finds no perversity in the order passed by the trial Court. Resultantly, the present application for grant of leave to appeal is dismissed.

06.05.2025

Parveen kumar

**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No