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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on: 15.12.2025*
Judgment pronounced on: 29.01.2026
Judgment uploaded on: 30.01.2026

\+ **CRL.REV.P. 1054/2024 & CRL.M.A. 25260/2024**

MR RAJ KUMAR GUPTA SOLE PROPRIETOR OF M/S KANWARJI RAJ KUMAR .....Petitioner

Through: Mr. Ajjay Aroraa Senior Advocate with Mr. Kapil Dutta and Mr. Vansh Luthra, Advocates.

versus

DELHI POLLUTION CONTROL COMMITTEE & ANR. .....Respondents

Through: Mr. Kush Sharma, Mr. Nishchaya Nigam, Ms. Komal Narula, Ms. Anugya Gupta and Ms. Disha Sharma, Advocates.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. The petitioner herein was convicted by the Court of learned ACMM (Spl. Acts), Central, Tis Hazari Courts, Delhi [hereafter '*Trial Court*'], in case arising out of CC No. 519826/2016, for offences punishable under Sections 24 and 25 read with Section 26 of

The Water (Prevention and Control of Pollution) Act, 1974 [hereafter '*the Water Act*'], *vide* judgment dated 20.04.2017. *Vide* order on sentence dated 25.04.2017, the petitioner was sentenced to undergo simple imprisonment for a period of three years along with payment of a total fine of ₹2 lakhs. The appeal preferred by the petitioner against his conviction and sentence, being CA No. 06/2017, was decided by the court of Special Judge (PC Act), CBI-01, Central, Tis Hazari Courts, Delhi [hereafter '*Appellate Court-I*'], *vide* judgment dated 11.08.2017, whereby the conviction was upheld, while the matter was remanded back to the Trial Court for passing a fresh order on the point of sentence. Aggrieved thereby, the respondent Delhi Pollution Control Board [hereafter '*DPCC*'] challenged the said judgment before this Court by way of CRL.REV.P. 111/2018. This Court, *vide* judgment dated 19.12.2022, directed the Appellate Court to adjudicate, in appeal, the issue of sentencing as well. Thereafter, the appeal of the petitioner, being CA No. 121/2017, was decided by the court of learned ASJ-01 (POCSO), Central, Tis Hazari Courts, Delhi [hereafter '*Appellate Court-II*'] on the point of sentence, wherein the order on sentence dated 25.04.2017 was modified to the extent that the sentence of simple imprisonment was reduced from three years to two years, while the total fine of ₹2 lakhs was upheld.

2. The petitioner, by way of the present petition, seeks to assail the judgments and orders passed by the learned Trial Court as well as the learned Appellate Court-I and Appellate Court-II, whereby he has

been convicted and sentenced for the aforesaid offences under the Water Act.

FACTUAL BACKGROUND

3. Briefly stated, the facts of the case are that a complaint was filed by the DPCC in the backdrop of directions issued by the Hon'ble Supreme Court in relation to prevention of pollution of river Yamuna. It was averred that the Hon'ble Supreme Court had taken cognizance of a news item published in The Hindustan Times dated 18.07.1994, titled *"And Quiet Flows the Maili Yamuna"*, which was registered and heard as I.A. No. 7 in Writ Petition (Civil) No. 725/1994. In the said proceedings, the Hon'ble Supreme Court, *inter alia*, had directed that no industrial effluent shall be discharged, directly or indirectly, into river Yamuna with effect from 15.11.1999. Thereafter, *vide* order dated 24.01.2000, the Hon'ble Supreme Court had further directed that no industry in Delhi shall discharge its effluent into any drain leading to river Yamuna or into the river itself, in a manner which would result in pollution of the said river. The Hon'ble Supreme Court had also observed, *vide* order dated 13.09.1999, that sufficient statutory provisions were available to the State to take appropriate action against polluters to ensure that the river was not polluted, and accordingly directed the National Capital Territory of Delhi to take necessary measures. Pursuant to the aforesaid directions of the Hon'ble Supreme Court, the Government of NCT of Delhi, through the DPCC and the Department of

Environment, had issued public notices in newspapers on 15.09.1999, 16.09.1999, and on 14.10.1999, 28.10.1999 and 29.10.1999, directing all water-polluting units located in industrial as well as non-conforming areas of Delhi to install individual effluent treatment plants for treatment of their effluent prior to discharge, on or before 01.11.1999, so as to meet the prescribed standards of the Central Pollution Control Board. Further public notices were issued on 03.11.1999, 04.11.1999 and 08.02.2000, reiterating that industries were required to operate strictly in compliance with the directions of the Hon'ble Supreme Court, failing which their units would be liable to closure and other penal action in accordance with law.

4. It is alleged that on 03.06.2000, the industrial unit namely M/s Kanwarji Raj Kumar, run by the accused Raj Kumar Gupta, was inspected by a Vigilance Squad comprising SDM (Environment) and engineers of the DPCC. During the inspection, the accused was found to be the occupier of the said unit, which was admittedly in operation. It was alleged that no treatment facility had been provided for the treatment of trade effluent generated by the unit. The trade effluent generated during the process of washing of sweets and namkeen preparation moulds, dishes, containers, and floor washing was allegedly being discharged without any treatment into the public sewer. It was further alleged that the accused was operating the unit without obtaining the requisite consent as mandated under the Water Act.

5. On the basis of the aforesaid allegations, the present complaint was filed on behalf of DPCC by Sh. Shyam Sunder, Junior Environmental Engineer.

6. Upon filing of the complaint, the accused was summoned. In pre-charge evidence, the prosecution examined CW-1 Sh. Shyam Sunder, and CW-2 Sh. Ajay Chagti, who was SDM, Kotwali at the relevant point of time. CW-1 Sh. Shyam Sunder, who had filed the complaint, deposed that on 03.06.2000, he along with Sh. Ajay Chagti, SDM, Kotwali, had inspected the polluting unit and found it to be operational, wherein sweets and namkeens were being manufactured. He deposed that the accused was discharging effluent without any treatment facility. He further stated that an inspection report, Ex. CW-1/1, was prepared in this regard, which bore the signatures of SDM and the accused. According to him, the untreated effluent was being discharged directly into the sewer. CW-1 was cross-examined at length by the learned defence counsel. CW-2 Sh. Ajay Chagti deposed that he was posted as SDM, Kotwali, and that on 03.06.2000, he had inspected the shop situated at 1972-73, Chandni Chowk, Delhi, as the head of the Vigilance Squad for Kotwali Sub-Division, constituted by the Government of NCT of Delhi pursuant to the directions issued in the “Maili Yamuna” case by the Hon’ble Supreme Court. He stated that the Vigilance Squad had inspected the second and third floors of the said premises and found LPG gas chulhas installed therein. He further deposed that no effluent treatment plant (ETP) had been installed in the premises for

treating the discharge before it was released into the sewer. He stated that the inspection report had been prepared by Sh. Shyam Sunder, JE, and further deposed that when the JE had asked the in-charge of the shop to produce the register relating to production/manufacture, the same was refused. Thereafter, the inspection report was forwarded to DPCC. CW-2 was also cross-examined at length by the learned defence counsel.

7. Thereafter, a charge under Sections 24, 25 and 26 of the Water Act, punishable under Sections 43 and 44 of the Water Act, was framed against the accused, to which he pleaded not guilty and claimed trial.

8. In post-charge evidence, the prosecution again examined the complainant, CW-1 Sh. Shyam Sunder, and CW-2 Sh. Ajay Chagti. CW-1 deposed that by virtue of order dated 05.05.2000, Ex. CW-1/1A, he had been duly authorised to file the present complaint. He reiterated the facts stated in the complaint and adopted his statement recorded during pre-charge evidence. CW-1 was cross-examined at length by the learned defence counsel. CW-2 was recalled in post-charge evidence and adopted his statement recorded during pre-charge evidence. He was also cross-examined on behalf of the accused.

9. The statement of the accused was thereafter recorded under Section 313 read with Section 281 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], wherein he denied all the

allegations and claimed that he had been falsely implicated in the present case.

10. In defence evidence, the accused Raj Kumar Gupta examined himself as DW-1. He deposed that he was the sole proprietor of the accused firm. He asserted that no inspection had been carried out on 03.06.2000 and that his signatures had been obtained on blank papers without any particulars being filled in. He further deposed that neither any sample of effluent was lifted by the inspecting team nor were any photographs taken during the alleged inspection. He stated that pursuant to directions issued by DPCC, one month's time had been granted for installation of an oil and grease trap plant, as published in various newspapers on 21.06.2000, and that the said plant had been installed within the stipulated time. He further stated that a bank guarantee of ₹25,000/- had been furnished in compliance with the directions of DPCC. He also deposed that his premises was situated in a non-conforming area of Delhi and, therefore, did not require any consent under the Water Act. He further stated that the average production of the accused firm was less than one tonne per day and, as such, no provisions of the Water Act had been violated. DW-1 was cross-examined by the learned counsel for the complainant.

11. Upon conclusion of the trial, the learned Trial Court convicted the petitioner herein for the offence punishable under Sections 24 and 25 read with Section 26 of the Water Act and sentenced him in the manner as noticed hereinabove. The learned Appellate Court-I upheld

the conviction of the petitioner. Subsequently, the learned Appellate Court-II modified the sentence awarded to the petitioner by reducing the term of imprisonment from three years' simple imprisonment to two years' simple imprisonment, while retaining the sentence of payment of total fine of ₹2,00,000/-.

12. Aggrieved thereby, the petitioner has preferred this revision petition. The operation of the impugned orders was stayed by the Predecessor Bench *vide* order dated 23.08.2024.

SUBMISSIONS BEFORE THE COURT

13. The learned senior counsel appearing for the petitioner submits that under the unamended provisions of the Water Act, penalties and punishment were prescribed under Sections 43 and 44, which provided for a minimum sentence of imprisonment of one year and six months, extendable up to six years, in addition to fine. It is contended that subsequent to the enforcement of the Water (Prevention and Control of Pollution) Amendment Act, 2024, the provision of imprisonment has been completely done away with, and the amended law now prescribes a monetary penalty ranging from a minimum of ₹10,000/- up to ₹15 lakhs. It is further provided that in case of continuing contravention, an additional penalty of ₹10,000/- per day is leviable for the period of such contravention. It is argued that the question as to whether an accused would be entitled to the benefit of a subsequent beneficial amendment is no longer res integra. Reliance is placed upon the decisions of the Hon'ble

Supreme Court in ***Trilok Chand v. State of Himachal Pradesh:*** *Criminal Appeal No. 1831 of 2010 [order dated 01.10.2019]*, and ***M/s A.K. Sarkar & Co. & Anr. v. State of West Bengal & Ors.:*** *2024 INSC 186*, wherein it has been held that where an amendment is beneficial to the accused, the same can be extended not only to pending cases but also to cases arising out of prior occurrences. It is submitted that in view of the aforesaid decisions of the Hon'ble Supreme Court, there is no justification to deny the benefit of the amended Water Act to the petitioner herein. The learned senior counsel further submits that in other matters, including CRL.L.P. No. 170/2018 and CRL. REV. P. No. 883/2017, this Court had directed reference of the cases to mediation, pursuant to which the respondent–DPCC had settled the disputes upon payment of ₹7.5 lakhs as penalty, along with an undertaking by the accused therein. It is contended that the petitioner is similarly placed and is, therefore, entitled to parity. In essence, it is argued that since the statutory provision under which the petitioner was sentenced has already undergone amendment, and the amended law no longer contemplates imprisonment, the sentence of imprisonment awarded to the petitioner is unsustainable in law. It is further submitted that even the stand taken by DPCC is in consonance with the position advanced by the petitioner. Accordingly, it is prayed that the present petition be allowed and the punishment awarded to the petitioner be modified in accordance with the provisions of the amended Water Act.

14. The learned counsel appearing for the respondent–DPCC submits that the petitioner was rightly convicted for running a unit engaged in the manufacture of sweets and namkeens at Gali Paranthe Wali, Chandni Chowk, without obtaining the requisite consent from DPCC and for discharging untreated trade effluent from the premises into a public sewer/drain. It is contended that such discharge was in clear violation of the directions issued by the Hon'ble Supreme Court in Writ Petition (Civil) No. 725/1994, arising out of the news item published in The Hindustan Times dated 18.07.1994, as well as in contravention of the provisions of the Water Act. It is further submitted that the Hon'ble Supreme Court, while passing various orders in the aforesaid writ petition, including orders dated 27.08.1999, 13.09.1999 and 24.01.2000, had not drawn any distinction between polluting units located in conforming or non-conforming areas. The directions of the Hon'ble Supreme Court were categorical and mandated appropriate action, including closure, against all units discharging industrial effluent into drains leading to river Yamuna, irrespective of their location. The learned counsel also argued that the learned Trial Court as well as the learned Appellate Courts have examined the entire oral and documentary evidence on record, duly considered all the contentions raised on behalf of the petitioner, and thereafter passed well-reasoned orders convicting the petitioner for the offences in question. It is argued that no perversity, illegality, or material irregularity can be attributed to the findings recorded by the courts below so as to warrant interference by this

Court. It is further pointed out that during the inspection conducted by DPCC in the year 2000, as many as 20 units/persons were arrayed. Out of the said 20, 17 persons pleaded guilty to the allegations. Of the remaining three persons who did not plead guilty, the petitioner is one. It is submitted that the other two persons have subsequently entered into settlements with DPCC on the terms and conditions stipulated in the respective Settlement Agreements, which fact has been recorded in paragraph 5 of the order dated 23.08.2025 passed in Crl. Rev. P. No. 1054/2024. The learned counsel contends that the petitioner alone has continued to contest the matter and cannot now seek parity or indulgence on grounds which stand concluded by concurrent findings of fact. Accordingly, it is urged that the present petition is devoid of merit and is liable to be dismissed.

15. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material on record.

ANALYSIS *&* FINDINGS

16. Insofar as the scope of present petition is concerned, it is well-settled that the High Court in criminal revision against conviction is not supposed to exercise the jurisdiction akin to the appellate court and the scope of interference is limited. Section 397 of the Cr.P.C. vests jurisdiction for the purpose of satisfying the Court as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of

such inferior court. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case [Ref: ***Malkeet Singh Gill v. State of Chhattisgarh:*** *(2022) 8 SCC 204*; ***State of Gujarat v. Dilipsinh Kishorsinh Rao:*** *2023 SCC OnLine SC 1294*].

17. During the course of arguments, although the learned senior counsel appearing for the petitioner primarily addressed submissions on the issue of sentence, this Court notes that the present revision petition has been filed raising several grounds on the merits of the conviction as well. Therefore, it would be appropriate to first briefly deal with the contentions raised by the petitioner in the present petition before adverting to the issue of sentence.

18. The principal grounds urged on behalf of the petitioner, as emerging from the petition and the record, may be summarised as under:

(i) That CW-1 was not competent or duly authorised to file the complaint, and therefore, the very institution of the complaint is vitiated.

(ii) There is a clear distinction between a "stream" and a "sewer" under the Water Act, as also between clauses (a) and (b) of Section 24(1) thereof. According to the petitioner, the consistent case of the respondent has been that the alleged discharge of untreated trade effluent was into a "sewer" and not into a "stream" or water body. It is submitted that despite

this, the petitioner has been convicted under Section 24(1)(b) of the Act, which pertains only to a 'stream', without any specific charge having been framed for the said offence, thereby causing serious prejudice to the petitioner.

(iii) No photographs of the premises were taken at the time of the alleged inspection, which casts doubt on the inspection proceedings and the prosecution case.

(iv) No sample of the alleged polluting effluent was collected or analysed, and in the absence of any sampling or scientific analysis, the allegation of discharge of polluting effluent remains unsubstantiated.

(v) The petitioner has also raised three different defences, contending that a policy had been framed for *halwais* having an annual average production of less than one tonne per day, permitting them to install an oil and grease trap plant within a period of one month in accordance with the schematic diagram issued by DPCC, and that such oil and grease trap plant was installed by the petitioner well within the stipulated time, as reflected in newspaper publications dated 21.06.2000, which was published after the date of alleged inspection. Further, the then Secretary (Environment), Government of NCT of Delhi, issued a letter only on 11.10.2000 directing restaurants, eating places and similar establishments to ensure compliance with the general standards of discharge into sewered and un-sewered areas, and therefore no violation could be attributed to

the petitioner prior thereto. Lastly, since the petitioner's premises was situated in a non-conforming area, no consent from DPCC was required.

19. The issue as to whether the complaint in question was filed by a competent and duly authorised person has already been examined and dealt with in detail by the learned Trial Court. The learned Trial Court, while repelling the objection raised by the petitioner, observed that although it was contended on behalf of the accused that only the Member Secretary of DPCC was competent to institute the complaint, the said contention was not borne out from the record. The learned Trial Court took note of document Ex. CW-1/1A, being the Minutes of Meeting held on 30.03.2000, which clearly reflected that the competent authority of DPCC had approved the launching of prosecutions against defaulting water-polluting units and had also expressly authorised Assistant Environmental Engineers and Junior Environmental Engineers of DPCC to file complaints under the Water Act and the Air (Prevention and Control of Pollution) Act, 1981. The observations of the learned Trial Court in this regard are as under:

> "16. It would be necessary to discuss the issue of maintainability of the complaint first as it is a legal issue raised by the accused and the decision of this issue will affect the case of the complainant. It is argued that this complaint is not filed by the· duly authorized and competent person. Only Member Secretary of DPCC is authorized to file the present complaint. However, present complaint is filed by area Environmental Engineer.

> 17. In rebuttal, it is argued on behalf of the. complainant that PWl is duly authorized to file the present complaint and reliance is placed upon document Ex.CWl/lA i.e. copy of Minutes of Meeting held on 30.03.2000 . Perusal of document Ex.CWl/lA (MOM), it is clear that the committee (DPCC) has approved the proposal of launching the prosecution against the defaulting water polluting units and also approved the authorization to AEEs/JEEs of DPCC to file complaint under Water Act and Air Act, 1981. Furthermore, similar issue raised before the Hon'ble High Court in case titled as "DPCC vs A-one Automobile & Ors" in Cr. l.P. 687 of 2013, has already been decided in favour of complainant and in view of the order dated 23.09.2014 passed in that case by Hon'ble High Court of Delhi, the plea of the accused is not sustainable at all."

20. Having perused the material placed on record, this Court finds no infirmity or illegality in the aforesaid observations and conclusions arrived at by the learned Trial Court.

21. As regards the contention relating to non-lifting of samples, both the courts below have concurrently held that a plain reading of Section 21 of the Water Act makes it evident that collection and analysis of a water sample is not a *sine qua non* for establishing the commission of an offence under the Act. The offence is complete upon proof of discharge of untreated trade effluent in contravention of the statutory provisions from the premises used by the accused, and the absence of sampling, by itself, does not vitiate the prosecution.

22. A Coordinate Bench of this Court has taken a similar view in ***Hem Karan Bidhuri v. Delhi Pollution Control Committee:*** *2019 SCC OnLine Del 8776*, wherein it was specifically held that non-lifting of samples of water for analysis is not fatal to the case of the

prosecution, particularly where the inspection report itself clearly records that no effluent treatment plant had been installed to treat the effluent. In the said case, it was observed as under:

> "7. After having heard learned counsel for the parties and on scrutiny of the impugned judgment and the evidence on record, I find that non-lifting of samples of water for analysis is not fatal to the case of the respondent as it is evident from the Inspection Report of 21st February, 2000 that no effluent treatment plant was installed by petitioner to treat the effluent."

23. As regards the contention relating to absence of photography of the spot, this Court is of the opinion that there was no statutory requirement under the Water Act mandating that the inspecting officers must carry cameras or take photographs of the premises or the polluting activity at the time of inspection. It is also borne out from the record that both prosecution witnesses have clearly and consistently deposed about the manner in which pollution was being caused due to discharge of untreated water/trade effluent into municipal sewer from the petitioner's unit. CW-1 categorically stated that untreated trade effluent was being discharged directly into the sewer and that such effluent, generated mainly from dish and container washing as well as floor washing, would increase suspended solids, biochemical oxygen demand, and oil and grease content, thereby polluting the water. CW-2 similarly deposed that no effluent treatment plant had been installed in or near the shop for treating the discharge before it was drained into the sewer. Both

witnesses relied upon the inspection report prepared at the site, which bears the signatures of the petitioner.

24. The inspection report itself records, *inter alia*, that the unit was found in operation, that no treatment facility had been provided for the treatment of trade effluent, and that the entire trade effluent generated during the process of washing of sweets and namkeen preparation moulds, dishes, containers, and floor washing was being discharged without treatment into the public sewer. Significantly, it is not in dispute that CW-1 and CW-2 had, in fact, visited the premises in question and that the petitioner had signed the inspection report. Although the petitioner has sought to explain his signatures by claiming that the same were obtained on blank papers, such a plea does not inspire confidence in the facts of the case.

25. Further, during his cross-examination, the petitioner (DW-1) himself admitted that as on 03.06.2000 neither an oil and grease trap plant nor any effluent treatment plant was installed in the kitchen. He also admitted that the kitchen was connected to the municipal sewer line and that the manufacturing process involved frying, with raw material being processed into finished products within the kitchen itself. These admissions substantially corroborate the respondent's case regarding generation and discharge of untreated effluent into the municipal sewer.

26. In view of the above, this Court is of the opinion that the absence of photography or sampling does not in any manner weaken

the prosecution case. The contention raised on this count is, therefore, devoid of merit and is liable to be rejected.

27. One of the grounds raised by the petitioner, urged for the first time before this Court, is that there exists a statutory distinction between a "stream" and a "sewer" under the Water Act, as also between clauses (a) and (b) of Section 24(1). It is contended that the consistent case of the respondent has been that the petitioner was allegedly discharging untreated trade effluent into a sewer/public drain and not into any stream or water body. Despite this, the petitioner submits that he has been convicted under Section 24(1)(b) of the Act, which pertains to discharge into a stream, without any specific charge having been framed for the said offence. This contention, in the considered opinion of this Court, is wholly misconceived and without merit. A perusal of the record clearly reveals that the charge against the petitioner was framed for an offence under Section 24 of the Water Act *simpliciter*. The learned Trial Court convicted the petitioner for the offence under Section 24, and the said conviction was affirmed by the learned Appellate Court-I. The relevant portion of Section 24 of the Water Act reads as under:

> "**24. Prohibition on use of stream or well for disposal of polluting matter, etc.**—
>
> (1) Subject to the provisions of this section,—
>
> (a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or

> (b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences."

28. It is material to note that at no stage did the Courts below draw any distinction as to whether the conviction was under clause (a) or clause (b) of sub-section (1) of Section 24. The assumption on the part of the petitioner that he has been convicted specifically under Section 24(1)(b) is, therefore, unfounded. On the contrary, the consistent case of the respondent–DPCC, as reflected from the complaint, the evidence on record, and the findings of the courts below, has always been that the petitioner was discharging untreated trade effluent into a public sewer/drain, resulting in water pollution. Such discharge squarely attracts the provision of Section 24(1)(a) of the Water Act. In view of the above, the said contention is also rejected.

29. As regards the defence raised by the petitioner based on an alleged policy for *halwais*, newspaper publications dated 21.06.2000, and a letter dated 11.10.2000 issued by the then Secretary (Environment), this Court finds no merit in the same. The petitioner has sought to rely upon these documents to contend that only an obligation to install an oil and grease trap plant was introduced subsequently and that no offence had been committed by him. However, as rightly noted by the learned Trial Court as well as the

learned Appellate Court-I, the inspection in the present case was conducted on 03.06.2000, whereas the newspaper publication relied upon by the petitioner is dated 21.06.2000 and the letter of the Secretary (Environment) is dated 11.10.2000. Both documents, therefore, are subsequent in point of time to the inspection and cannot be relied upon to justify the petitioner's conduct on the date of inspection. Further, it is evident from the record that the petitioner failed to prove the said documents in accordance with law. The learned Appellate Court-I has rightly observed that the alleged circular/letter dated 11.10.2000 was not proved, and only an incomplete photocopy thereof was placed on record. Further, the petitioner relied upon a document marked as 'DX-1', which itself referred to an attachment, namely the order dated 11.10.2000, but the said attachment was never placed on record either before the Trial Court or before the Appellate Court. In the absence of a duly proved and complete document, no benefit could have been extended to the petitioner on the basis of such material. Even otherwise, CW-1 had categorically stated in his cross-examination that the schematic diagram relied upon by the petitioner had been published only after the raid conducted in the present case.

30. As regards the defence that no consent from DPCC was required since the petitioner's premises was situated in a non-conforming area, this Court is of the opinion that it is evident from the record that the directions issued by the Hon'ble Supreme Court in *Writ Petition (Civil) No. 725/1994* were categorical and made no

distinction between polluting units located in conforming or non-conforming areas. In compliance with the said directions, repeated public notices were issued, specifically directing all water-polluting units located in industrial as well as non-conforming areas to install individual effluent treatment plants prior to discharging effluents. The petitioner, therefore, cannot claim exemption from compliance merely on the ground that his unit was located in a non-conforming area. The courts below have correctly appreciated this aspect, and this Court finds no infirmity in their conclusions.

31. In view of the aforesaid discussion, this Court is of the view that the material on record clearly establishes that the petitioner was operating the unit without obtaining the requisite consent and was discharging untreated trade effluent into the public sewer, in contravention of the statutory provisions and the directions of the Hon'ble Supreme Court. Accordingly, the petitioner has rightly been held guilty for the offences punishable under Sections 24 and 25 read with Section 26 of the Water Act.

32. Considering now the ***aspect of sentence***, it is to be noted that at the relevant time, Section 43 of the Water Act prescribed punishment for contravention of Section 24, whereas Section 44 prescribed punishment for contravention of Sections 25 and 26 of the Act. Both the said provisions provided for a minimum sentence of one year and six months and a maximum sentence of six years' simple imprisonment, in addition to fine. In the present case, the learned Trial Court had sentenced the petitioner to undergo simple

imprisonment for a period of three years for each offence and imposed a fine of ₹1,00,000/- for each offence. The learned Appellate Court-II, while maintaining the conviction, reduced the sentence of imprisonment to two years' simple imprisonment.

33. The learned senior counsel appearing for the petitioner has, however, assailed the sentence on the ground that subsequent to the conviction of the petitioner, the Water Act has undergone amendment, whereby the provision of imprisonment has been done away with and the punishment has been confined to imposition of monetary penalty. It is contended that the said amendment being beneficial in nature ought to be extended to the petitioner, and that no sentence of imprisonment should now be sustained.

34. This Court notes that the Water (Prevention and Control of Pollution) Amendment Act, 2024 has done away with the punishment and has now introduced a penalty, *which shall not be less than ten thousand rupees but may extend to fifteen lakh rupees*, and where such contravention continues, an additional penalty of ten thousand rupees for every day during which such contravention continues.

35. In this regard, this Court's attention has been drawn to the decision of the Hon'ble Supreme Court in case of ***A.K. Sarkar & Co. v. State of West Bengal:*** *(2024) 10 SCC 727*, wherein it has been held as under:

> "10. The Prevention of Food Adulteration Act, 1954 was repealed by the introduction of the Food Safety and Standards Act, 2006 where Section 52 provides a maximum penalty of

Rs.3,00,000/- for misbranded food. There is no provision for imprisonment.

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11. Whether the appellant can be granted the benefit of the new legislation and be awarded a lesser punishment as is presently prescribed under the new law? This Court in *T. Barai v. Henry Ah Hoe (1983) 1 SCC 177*, had held that when an amendment is beneficial to the accused it can be applied even to cases pending in Courts where such a provision did not exist at the time of the commission of offence. It was said as under:-

> "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."

12. A reference to the above case was given by this Court in *Nemi Chand v. State of Rajasthan (2018) 17 SCC 448* where six months of imprisonment awarded under the Act was modified to only a fine of Rs.50,000/-.

13. The above principle was applied by this Court again in *Trilok Chand v. State of Himachal Pradesh, (2020) 10 SCC 763* and the sentence of three months of imprisonment and Rs.500/- of fine for misbranding under the Act, 1954 was modified to that of only a fine of Rs.5,000/-.

14. The present appellant no.2, at this stage, is about 60 years of age and the crime itself is of the year 2000, and twentyfour years have elapsed since the commission of the crime. Vide Order dated 06.08.2018, this Court had granted exemption from surrendering to appellant no.2.

> 15. Considering all aspects, more particularly the nature of offence, though we uphold the findings of the Courts below regarding the offence, but we hereby convert the sentence of appellant no.2 from three months of simple imprisonment along with fine of Rs.1,000/- to a fine of Rs.50,000/- (Rupees Fifty Thousand only). The sentence of appellant no.1 which is for a fine of Rs. 2000/- is upheld. The amount shall be deposited with the concerned Court within a period of three weeks from today. Accordingly, the appeal is partly allowed."

36. Thus, it has been held that while Article 20(1) of the Constitution prohibits retrospective application of penal provisions which create a new offence or enhance punishment, there is no bar on applying a subsequent amendment which reduces the punishment prescribed for an offence. Where an amendment is beneficial to the accused, the same can be extended even to cases arising out of prior occurrences and to cases pending adjudication.

37. However, this Court also cannot lose sight of the fact that the inspection conducted by DPCC in the year 2000 covered as many as 20 units/premises. Out of the said 20, as many as 17 persons chose to plead guilty at the initial stage itself. Of the remaining three persons who did not plead guilty, the petitioner is one. The other two persons have subsequently settled their disputes with DPCC on agreed terms. The record further shows that even in respect of one of such persons, namely Vikash Bansal, a Coordinate Bench of this Court, in the year 2018, permitted settlement *inter alia* on payment of ₹7.5 lakhs to DPCC, in addition to ₹2.5 lakhs already deposited with the Prime Minister's Relief Fund, along with a further agreement for plantation of 100 trees to contribute towards making Delhi greener.

38. The petitioner, however, did not opt for settlement at the relevant time and continued to contest the matter through trial, appeal, revision and thereafter. It is only now, at this stage, that the petitioner has relied upon the aforesaid order passed by the Coordinate Bench and has urged that he may be granted similar relief by removal of the sentence of imprisonment and by imposing such other conditions as this Court may deem appropriate in view of the Amendment in the Water Act.

39. While considering such plea, **this Court is mindful that pollution of water bodies, particularly rivers, has serious and long-lasting consequences.** The Hon'ble Supreme Court has repeatedly emphasised the need for strict compliance with environmental laws. **Small eateries, restaurants and food-processing units, though individually limited in scale, collectively contribute significantly to pollution when untreated effluents are discharged into public sewers and drains leading to rivers. Such establishments cannot be absolved of their responsibility merely on the ground of size or scale of operation.** Compliance with environmental norms is a responsibility shared by all, and the need for deterrence remains an important factor while dealing with offences relating to the environment.

40. At the same time, this Court is required to balance the above considerations with the settled position of law that a subsequent beneficial amendment, which does away with imprisonment and confines the punishment to imposition of monetary penalty, can be

extended even to pending cases. In the present matter, the petitioner is about 59 years of age and the offence in question dates back to the year 2000. More than two decades have elapsed since then and the petitioner has been facing trial for about 25 years. It is also not in dispute that the petitioner has already deposited the fine of ₹2 lakhs imposed upon him. Having regard to the nature of the offence, the passage of considerable time since its commission, the age of the petitioner, and the legislative intent reflected in the amendment to the Water Act whereby imprisonment has been consciously done away with, this Court is of the considered view that the ends of justice would be adequately served by substituting the sentence of imprisonment with a substantial monetary penalty, coupled with appropriate restorative measures, rather than by requiring the petitioner to undergo further incarceration at this stage.

41. ***Accordingly***, while upholding the conviction of the petitioner, the order on sentence is modified to the extent that the sentence of imprisonment is set aside. In addition to the fine of ₹2 lakhs already deposited, the *petitioner is directed to pay* a further fine of ₹10 lakhs which shall be deposited with the DPCC, within a period of 2 months from date. The petitioner is *also directed* to undertake plantation of 100 trees in coordination with the Government of NCT of Delhi, through its Forest Department, in and around Chandni Chowk area or any other location to be identified by the said Department. It is directed that each tree shall have a minimum of two-years' nursery-age and a trunk height of six feet. The petitioner shall file a

compliance affidavit along with proof of plantation before this Court within a period of three months from date.

42. Subject to the aforesaid modification, the conviction of the petitioner is upheld and the revision petition alongwith pending application stands disposed of in the above terms.

43. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JANUARY 29, 2026/ns
T.D.