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(2003) 08 P&H CK 0158

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal A. No. 170-DBA of 1993

State of Haryana APPELLANT

Vs

Sat Narain RESPONDENT

Date of Decision: Aug. 13, 2003

Acts Referred:

- Prevention of Food Adulteration Act, 1954 - Section 16(1)(a)(i)

Citation: (2003) 8 CriminalCC 221 : (2003) 4 RCR(Criminal) 883

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: Rajesh Bhardwaj, AAG, Haryana, for the Appellant; Bhoop Singh, for the Respondent

Final Decision: Dismissed

Judgement

Virender Singh, J.

State of Punjab has preferred the present appeal against the impugned judgment of learned Judicial Magistrate 1st Class, Panipat dated 28.11.1992, vide which respondent-Sat Narain has been acquitted of the charge of Section 16(1)(a)(i) of the Prevention of Food Adulteration act, 1954 (hereinafter referred to as the "Act").

2. The prosecution case, in short, is that on 17.9.1986, Shri S.D. Gupta, Food Inspector along with Dr. H.M. Lal, Medical Officer, Primary Health Centre, Madlauda Inspected the shop of the respondent and found him in possession of Haldi Powder for public sale. The Food Inspector disclosed his identity and desired to take sample of Haldi for the purpose of analysis. A notice was served upon the respondent and thereafter the Inspector purchased the Haldi powder containing 600 gms after making the payment for the purpose of analysis. After mixing it properly, the other formalities of dividing into there parts and thereafter put it in the dry and clean bottles were done. The other required formalities were also done by the Food Inspector. The sample was sent to the Public Analyst, Haryana through registered

post and after the receipt of report Ex.PD, the complaint was consequently filed against the respondent.

3. The respondent after putting appearance in the Court moved an application u/s 13(2) of the Act for sending the second part of the sample to the Central Food Laboratory, My sore for analysis and the Director, Central Food Laboratory, My sore opined that the sample did not conform to the standards laid down for turmeric powder under the provisions of the Act and Rules thereof and it was not free from the presence of foreign ingredient identified as tapioca starch.

4. The learned trial Court after appreciating the entire evidence on file, acquitted the. respondent on the ground that the sample allegedly taken from the shop of the respondent was within the prescribed limit of purity prescribed under the Act and if the sample was not conforming to the standard of purity prescribed for Haldi powder then mere presence of tapioca starch in the absence of its quantity either by weight or percentage cannot be taken as a ground to say that the sample is adulterated. Hence, this appeal.

5. I have heard Mr. Rajesh Bhardwaj, learned Assistant Advocate General, Haryana and Mr. Bhoop Singh, learned counsel for the respondent and with their assistance I have also gone through the entire record.

6. Mr. Bhardwaj has assailed the impugned judgment on the ground that the second part which was sent to the Central Food Laboratory, My sore shows that the sample did not conform to the standards laid down for turmeric powder under the provisions of the Act and rules thereof as it was not free from the presence of foreign ingredient (tapioca starch). And as such the learned trial Court should have convicted the respondent for the charge framed against him.

7. Refuting the argument advanced by the learned State counsel, Mr. Bhoop Singh has vehemently argued that the acquittal of the present respondent is well reasoned one and that the learned trial Court has rightly acquitted the respondent.

8. I have gone through the impugned judgment minutely once again. In paras 9 to 17 of the impugned judgment, the learned trial Court has entered into detailed discussion for arriving at the conclusion that the sample allegedly taken from the shop of the respondent was within the prescribed limit of purity.

9. In para 9 of the impugned judgment, the report of the Central Food Laboratory, My sore has been reproduced in extenso and thereafter, the Court came to the conclusion that the sample conform to the standards prescribed in all respects but it was declared adulterated only on account of the presence of foreign ingredient which was identified as tapioca starch. The other ground taken by the learned trial Court was that even if it is presumed that the extraneous matter is not permitted in Haldi powder even then the sample was not adulterated because it does not fall in any of the Clauses of Section 2 of the Act which defines adulteration. The learned

trial Court has also taken into account the fact that the Director, Central Food Laboratory, My sore has not given the quantity of turmeric starch which was noticed by him on microscopic examination.

10. The learned trial Court besides other judgments which were cited in favour of the respondent also relied upon M/s Indana Spices & Food Industries Ltd. v. Food Inspector, Bhiwani, 1992(1) CLR 625. In the said case, the Public Analyst found the samples of Mirch powder adulterated on account of the presence of extraneous matter identified as rice starch. It was held by this Court that where a foreign substance is not injurious to human health or its presence is not absolutely prohibited in a particular article of food, it will be necessary for the Public Analyst to state the presence of the quantity of foreign substance in the sample and if minor presence of a foreign element not injurious to health is found, action will be covered by Section 95 of I.P.C. making out no offence. While applying that principle to the facts of the present case, the trial Court has passed this well reasoned judgment. I am in agreement with the finding of the trial Court as I find no infirmity in the impugned judgment of acquittal.

No interference is called for.

Resultantly, the present appeal is dismissed being devoid of any merit.