
Khusi Ram Rathore and Another Vs State of U.P.

Criminal Revision No. 557 of 1986

Court: Allahabad High Court

Date of Decision: Nov. 27, 2000

Acts Referred:

Prevention of Food Adulteration Act, 1954 "Section 11(1), 16(1)

Citation: (2001) 2 ACR 1758

Hon'ble Judges: Virendra Saran, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Virendra Saran, J.

Khusi Ram Rathore and Balak Ram Rathore have preferred this revision against the judgment and order dated

18.3.1986 of Sri Khem Singh, Special Judge (Dacoity Affected Area)/ Additional Sessions Judge, Farrukhabad, dismissing Criminal Appeal No.

135 of 1985 against the judgment and order dated 29.6.1985 of Sri V. K. Maheshwari, Munsif-Magistrate, convicting and sentencing the

applicants u/s 16(1)(c) of the Prevention of Food Adulteration Act, 1954 (for short the Act) and sentenced them to six months" R.I. and a fine of

Rs. 1,000.00 each and in default of payment of fine the applicants have been sentenced to further three months" R.I.

2. The prosecution case is that on 20.6.1984 at about 5 p.m., Sri M.P. Tiwari, Head Food Inspector in the presence of Sri N. L. Verma, and Sri

Om Prakash visited the shop of the applicants in Kasba Nawabganj in the district of Farrukhabad. The applicants were present at the shop. There

were some packets of compat (sugar toffee) in a pouch of polythene at the shop. The Head Food Inspector asked the applicants to give three

packets of compat to him as sample. The applicant Khusi Ram gave three packets. However, when the Head Food Inspector asked them to

disclose the name of the manufacturer and the name of the whole-seller, there came a refusal and suddenly, the packets were snatched. The Head

Food Inspector was pushed out of the shop and applicant Balak Ram locked the shop.

3. At the trial, the applicants denied their guilt. The courts below accepted the prosecution case and convicted and sentenced the applicants as

mentioned above. The applicants have now come up in revision before this Court.

4. I have heard Sri R. K. Saxena, learned Counsel for the applicants and learned State counsel.

5. It is conspicuous to note that the own case of the prosecution is that the applicants did give the sample. At the same time, it is also clear that no

notices were given to the applicants u/s 11(1) of the Act. In the absence of the notice and any other writing on the spot, I am left with the solitary

uncorroborated evidence of Sri M.P. Tiwari, Head Food Inspector. The two witnesses who are present on the spot, namely, L. N. Verma and

Om Prakash have been withheld from the witness box. In a case where there is not even a shred of documentary evidence regarding happening of

the date, it is not safe to rely on the ipse dixit of the Head Food Inspector who is obviously interested in seeing that the case, results in conviction.

In the totality of the circumstances, it is not possible for me to rely upon the uncorroborated testimony of Sri M.P. Tiwari and hold both the

applicants, who are real brothers, guilty. The case against the applicants is not free from reasonable doubt.

6. Accordingly, this revision is allowed. The conviction and sentences passed against the applicants are set aside. The applicants are acquitted. The

applicants are on bail. They need not surrender. Their bail bonds are discharged. Fine if paid by the applicants shall be refunded to them forthwith.