
Wali Mohd. Vs State of U.P.

Criminal Revision No. 255 of 2000

Court: Allahabad High Court

Date of Decision: Aug. 11, 2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) " Section 433#Prevention of Food Adulteration Act, 1954 " Section 16, 7

Citation: (2001) 1 ACR 557

Hon'ble Judges: B.K. Rath, J

Bench: Single Bench

Judgement

B.K. Rath, J.

Applicant Wali Mohd. on 30.6.1985 was exposing milk for sale. His sample of milk was taken from him according to rules

by the Food Inspector and the sample was found adulterated and found deficient in 22% of non-fatty solids and 22% milk fat. The applicant was

prosecuted according to law, which resulted in his conviction u/s 7/16 P.F.A. Act and sentence of six months R.I. and a fine of Rs. 1,000 which

was awarded by the A.C.J.M., Khurja by an order dated 29.11.1994. Against that order, the applicant preferred Criminal Appeal No. 14 of

1996, which was dismissed on 2.8.2000 and the applicant could not get any relief in the appeal. Aggrieved by that order, the present revision has

been preferred.

2. I have heard Sri S. P. Singh Raghav, learned Counsel for the applicant and the A.G.A.

3. The learned Counsel for the applicant has not challenged the conviction on merits. I have considered the judgments and is of the view that the

applicant was rightly convicted.

4. The revision has been argued only on the question of sentence. It is contended that the sentence may be permitted to be commuted under

Clause (c) of Section 433, Cr. P.C. as the sample in the present case was taken in the year 1985. The learned Counsel has referred to the

following observations of the Hon"ble Supreme Court made in the case of N. Sukumaran Nair Vs. Food Inspector, Mavelikara, .

the offence took place in the year 1984. The Appellant has been awarded six months simple imprisonment and has also been ordered to pay a fine

of Rs. 1,000 under Clause (d) of Section 433 of the Code of Criminal Procedure, ""the appropriate Government"" is empowered to commute the

sentence of simple imprisonment for fine. We think that this would be an appropriate case for commutation of sentence where almost a decade has

gone by. We therefore, direct the Appellant to deposit in the trial court a sum of Rs. 6,000 as fine in commutation of the sentence of six months"

simple imprisonment within a period of six weeks from today and intimate to the appropriate Government that such fine has been deposited. On

deposit of such fine, the State Government may formalise the matter by passing appropriate orders under Clause (d) of Section 433 of the Code of

Criminal Procedure.

5. In view of the above observations, there is no reason as to why the sentence of the revisionist be not commuted. I accordingly direct that the

applicant shall deposit a sum of Rs. 6,000 as fine in commutation of his sentence of six months" R.I. (in addition of the fine of Rs. 1,000 imposed

on him). On deposit of fine, the applicant shall be released from jail and shall not be rearrested. The revisionist shall send an application to the State

Government for commutation of his sentence of six months" R.I. along with the copy of this judgment and receipt of Rs. 6,000 deposited by him.

On that application of the revisionist, the State Government may formalise the matter by passing appropriate order u/s 433(c), Cr. P.C. However,

in case the revisionist fails to deposit the amount of fine, as directed above, he shall serve out the sentence imposed upon him by the Magistrate.

6. The revision is disposed of with the modification of the sentence as aforesaid while maintaining the conviction.