
(1986) 10 MP CK 0011

Madhya Pradesh High Court (Indore Bench)

Case No: Criminal Revision No. 41 of 1984

Murlidhar and another

APPELLANT

Vs

State of M. P.

RESPONDENT

Date of Decision: Oct. 31, 1986

Acts Referred:

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

Citation: (1987) JLJ 240 : (1987) MPLJ 123

Hon'ble Judges: K.L. Shrivastava, J

Bench: Single Bench

Advocate: Surjeet Singh, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K.L. Shrivastava, J.

This revision petition is directed against the appellate judgment and order dated 2-2-1984 passed by the II Additional Sessions Judge, Shajapur, in Criminal Appeal No. 81 of 1984 whereby the original petitioner Murlidhar's conviction u/s 16(1)(a)(i) of the Prevention of Food Adulteration Act 1955 and sentence of rigorous imprisonment for three months and a fine of Rs. 1000/- have been maintained. The present petitioners are Murlidhar's legal representatives.

The circumstances giving rise to this petition are these. On 26-4-1982 Omprakash Shithole (p.w.1) Government Food Inspector, Shajapur purchased R. B. D. (Refined Bleached Deodoured) palm oil from Murlidhar's shop situate within the area of Shajapur Municipality. One of the samples was sent to the Public Analyst Bhopal who submitted his report (Ex. p/6) to the effect that the oil is below the prescribed standard.

On the conclusion of the investigation, the petitioner Murlidhar was prosecuted. He got one of the samples analysed by the Pirector, Central Food Laboratory Pune. Even according to this report (Ex. D/I) the oil was found to be adulterated.

At the conclusion of the trial, the learned trial Magistrate convicted and sentenced the original petitioner Murlidhar as already stated. He found that there is nothing in writing to indicate that the Food Inspector was authorised to take sample within the area of the Shajapur Municipality. It was, however, held that he could do it in his capacity as a private person.

Standard of palm oil is given at item No. A-17-19. For human use, it has to be refined and has to conform to the standard laid down at item A-17-15.

The contention of the learned counsel for the petitioners is that from the material on record, it is clear that the oil was not for human consumption. According to the evidence of Omprakash (p.w.1) oil was kept in a drum outside the shop. The testimony of Harinarayan (p.w.2) is that it was there on the spot from the very beginning. His version is that it was written on the drum that the oil is not edible. The testimony of Omprakash, however, is that it was after the sample had been taken that Murlidhar had written on the drum that the oil is not edible oil. The testimony of Harinarayan (p.w.2) is that at the time the sample was taken, Murlidhar had stated that the oil was not edible, but was for preparation of soap.

In the instant case, Murlidhar was selling the oil which was refined and such oil falls within the definition of edible oil. What was being sold was not just palm oil, but refined palm oil. Therefore, contends the respondent's counsel the mere word of the original petitioner Murlidhar that it was not edible oil would not absolve him from liability.

In the decision in V. C. C. Chetty vs. State of A.P. (1971 Cri.L.J. 987) with reference to the Supreme Court decision in Andhra Pradesh Grain and Seed Merchants' Association's case (1970 S.C.C. 71), it has been pointed out that where the article can also be used as food, the version of the petitioner that it was meant for use otherwise, would be of avail to him and satisfaction of the Court about its correctness is not necessary. In this connection in the decision in [State of Tamil Nadu Vs. R. Krishnamurthy](#), a contrary view has been taken. There is no reason why for purposes of preparation of soap the palm oil would be refined. One cannot be permitted to sell adulterated edible oil giving it out that it is not edible and thereby escape criminal liability for the offence committed. Otherwise the object of the Act can easily be frustrated. The decision in Mohammad Yamin's case (1951- 1982 F.A. C. (S. C.) 286) is also pertinent and so also the one in Shah Ashu Saiwant's case 169 ibid

On a careful consideration, I am of the view that Murlidhar's conviction is not liable to be interfered with in exercise of this Court's revisional jurisdiction.

Adulteration of articles of food has to be firmly dealt with and on a careful consideration, I find that the sentence imposed does not call for interference.

In the result, the revision petition being without merit, fails and is dismissed.