

**(2004) 11 AP CK 0022**

**Andhra Pradesh High Court**

**Case No:** Criminal Appeal No. 1801 of 1999

The Food Inspector, Div. II

APPELLANT

Vs

D. Ravindranath and Others

RESPONDENT

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**Date of Decision:** Nov. 18, 2004

**Acts Referred:**

- Prevention of Food Adulteration Act, 1954 - Section 14A, 16(2A), 20(1)

**Citation:** (2005) 2 ALT(Cri) 446 : (2005) CriLJ 1071

**Hon'ble Judges:** P.S. Narayana, J

**Bench:** Single Bench

**Advocate:** Public Prosecutor, for the Appellant; V.K.G. Rama Gopal, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

P.S. Narayana, J.

The Food Inspector, Division II. Guntur District, Office of the Assistant Food Controller, Zone III, Guntur, represented by the Public Prosecutor, High Court of A.P., presented the present criminal appeal as against the order of acquittal, dated 9-4-1999 recorded in C. C. No. 195 of 1996 on the file of the Judicial Magistrate of First Class, Mangalagiri, against the accused.

2. The case of the prosecution, in brief, is as hereunder :--

A-1 is the vendor, A-2 is the proprietrix of M/s. Haripriya Beedies, Cigarettes, Fancy and Electricals, Shop No. 12 at Undavalli and A-3 is the manufacturer of J.S.R. Brand supari rawa. That on 27-10-1995 at 12.30 p.m., the complainant along with his attender-- Ch. Koteswara Rao inspected the shop of A-2, where A-1 was managing the business of the shop and they were informed that A-2 is the proprietrix of that shop. A-1 informed the complainant that the supari rawa (J.S.R. Brand) is meant for sale to public for human consumption. On suspicion of adulteration, the complainant purchased three packets (200 grams each) of supari rawa (J.S.R. Brand) for the purpose of analysis and paid Rs. 63/- towards its cost and obtained a cash

receipt from A-1 in the presence of Jonna Durga Malleswara Rao and Ch. Koteswara Rao i.e., the mediators. Subsequently, a notice in Form No. VI was issued and served on A-1 informing that the said supari rawa will be sent to the Public Analyst for analysis and an acknowledgment was received from him. Then, the above-said 600 grams of supari rawa (i.e., three supari rawa packets of 200 grams each) were divided into three equal parts as samples and were sealed in the presence of the said J. Durga Malleswara Rao and Ch. Koteswara Rao, under the cover of a Panchanama following the prescribed procedure under the Act. On 28-10-1995, one part of the sample container was sent to the Public Analyst, Hyderabad, for the purpose of analysis, along with a memorandum in Form No. VII in a sealed packet under intimation to the Gazetted Food Inspector, Local Health Authority, Guntur, in registered Parcel vide parcel No. 224, dated 28-10-1995. The remaining two parts of the sample containers were deposited with the Gazetted Food Inspector, Local Health Authority, Guntur, for safe custody. On 27-10-1995, a notice u/s 14-A of the Prevention of Food Adulteration Act, 1954, (hereinafter in short referred to as "the Act" for the purpose of convenience) in Form No. VI was issued to A-3. But, the same was returned by the Postal Authorities with the endorsement "insufficient address". The Assistant Commercial Taxes Officer, Main Bazaar, Guntur, furnished the business particulars of A-3 to the complainant. The Assistant Commercial Taxes Officer, Mangalagiri, furnished that A-2 is the proprietrix of the shop in question. On 29-3-1996, an intimation letter was sent to A-3 through registered post and A-3 gave reply through his counsel and on 20-4-1996, the Public Analyst after analysis has sent a report to the Local Health Authority, Guntur, opining that the sample is infested with fungus and it is, therefore, adulterated. The complainant filed the complaint after receiving the written consent u/s 20(1) of the Act to launch prosecution against A-1 to A-3. Thereafter cognizance was taken u/s 16(2-A) of the Act against the accused.

3. In support of the case of the prosecution, P.Ws. 1 to 3 were examined and Exs. P-1 to P-57 were marked and on behalf of defence, Exs. D-1 and D-2 were marked.

P.W.1 is the Food Inspector who had deposed in detail about the collection of samples. P.W. 2 is the attender of the said Food Inspector who had deposed about the details of taking the samples. P.W.3 is the mediator who had not supported the version of the prosecution.

The case of the prosecution is that A-1 sold supari rawa which was said to have been manufactured by A-3 in the shop of A-2.

4. The main controversy between the parties was that supari rawa is not a food article as per the provisions of the Act. The evidence of P.W. 1 is silent relating to the aspect whether supari rawa is food article meant for human consumption. Apart from this aspect of the matter, Ex. P-24 the Analyst report also had not specified that the article of food i.e.; supari rawa is injurious to health. The learned Magistrate had recorded a finding that supari rawa is not a food article falling under the Act. Apart

from this aspect of the matter, the learned Magistrate also had recorded reasons on appreciation of evidence and arrived at a conclusion that the prosecution failed to establish that A-1 and A-2 purchased supari rawa from A-3 which was lifted from A-1 by P.W. 1 on the date of his visit and P.W. 1 had not taken any steps to establish the said fact and hence, there is no evidence to connect A-1 to A-3 with supari rawa in question. On appreciation of the evidence of P.Ws. 1 to 3, Exs. P-1 to P-57 and Exs. D-1 and D-2, reasons in detail had been recorded and acquittal had been recorded.

5. This Court does not see any reason to disturb the said findings recorded by the learned Magistrate and the same are hereby confirmed.

The criminal appeal shall accordingly stand dismissed.