

Sikkim High Court K.S. Gurung vs Ramananda Prasad And Anr. on 15 September, 2000 Equivalent citations: 2001 CriLJ 3072 Author: R Dayal Bench: R Dayal, A Deb JUDGMENT Ripusudan Dayal, C.J. 1. This criminal revision was registered suo motu by this Court against the order dated 28th March, 2000 passed by the learned Chief Judicial Magistrate, East and North in Criminal Case No. 6 of 1999 K.S. Gurung v. Ramananda Prasad whereby the accused was convicted under Section 16 of the Prevention of Food Adulteration Act, 1954 and sentenced on the plea of guilty to undergo simple imprisonment till the rising of the Court and fine of Rs. 3000/- and in case of default in payment of fine to undergo simple imprisonment for a further period of six months. Reason for registering the criminal revision suo motu was that an offence under Section 16 is punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than Rs. 1000/-. Under the proviso to that Section, the Court may, for any adequate and special reasons to be mentioned in the Judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than five hundred rupees. Thus, in no case the imprisonment could be for less than three months. The impugned order was passed on 28th March, 2000 which was the date fixed for evidence. It appears that the accused pleaded guilty on that date under the impression that sentence of imprisonment; would be till the rising of the Court. The order of sentence being in contravention of the statutory provision, the order is illegal and we are of the view that the accused persons pleaded guilty under the impression that they would suffer imprisonment only till the rising of Court and therefore, they should have an opportunity to contest the case. 2. In the result, the revision is allowed, the impugned order is set aside and the matter is remanded to the Chief Judicial Magistrate, East and North who shall proceed with the trial, according to law. The accused shall appear before the Chief Judicial Magistrate, East and North on 25th September, 2000.