

Laxmi Narain vs State on 4 May, 1953

Equivalent citations: AIR1953ALL713, AIR 1953 ALLAHABAD 713

JUDGMENT

Malik, C.J.

1. The applicant Laxmi Narain has been convicted under Section 6(1)(i) Poisons Act (No. 12 of 1919) for contravening Rules 2 (2) (a) (b) and (c) of the Poisons Act. The applicant was also charged under Section 4, U. P. Prevention of Adulteration Act. He was sentenced to pay a fine of Rs. 100/- and the seven bags of adulterated mustard seeds seized by the Sanitary Inspector were confiscated under Section 6(2) of the same Act. The applicant is a dealer in mustard seeds and on 5-5-1950, the Inspector found in the shop of the applicant seven bags of mustard seeds, samples of which when sent to the Public Analyst, U. P. Government, were found to contain 12.5 per cent approximately of argemone maxicana. The applicant was convicted and sentenced as mentioned above.

2. Learned counsel has raised three points. That argemone maxicana is not a poison not having been notified as such under the Poisons Act and the applicant could not, therefore, be convicted under Section 6, Poisons Act. On behalf of the State a notification No. 1107 (3)/VI-648-1950, dated 29-3-1950, has been produced which is as follows:

"Add "Argemone (Argemone Maxicana) seed commonly known as 'Bhat Katiya' and Argemone oil" as item (1-a) after item (1) in the Schedule to the Rules referred to above."

There is, therefore, no force in this point.

3. The next point urged by learned counsel is that mustard seeds not being article of food the applicant could not be convicted under the Prevention of Adulteration Act, 1912. Learned counsel's argument is that mustard oil may be treated as food but not mustard seeds. The lower court found on that point against the applicant. (There can be no doubt that not only mustard oil but mustard seed is food. Mustard seeds are used in cooking etc., and are also used with spices for flavour. There is, therefore, no substance in this point also.

4. Lastly, it is urged that under Sub-section (2) of Section 6, Poisons Act it is only the poison that could be confiscated and not the mustard seeds with which it was mixed. Sub-section (2) of Section 6 is as follows:

"Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, shall be

liable to confiscation."

The words "vessels, packages or coverings" are wide enough to include a bag of mustard seeds mixed with argemone maxicana. In Webster's New International Dictionary, Second Edition, the word "package" has been defined as "A collection of things packed together; a cargo.

Means for packings; receptacles in which to pack. A bundle made up for transportation; a packet; a bale; a parcel; as, a package of goods."

Here the bags contained argemone maxicana seeds mixed with mustard seeds and it cannot be said that the whole thing did not form a package. There is, therefore, no substance in this argument either.

5. The revision has no force and is dismissed.