

Ram Badal vs The State on 14 May, 1951

Equivalent citations: AIR1952ALL82, AIR 1952 ALLAHABAD 82

ORDER

P.L. Bhargava, J.

1. This application in revision is directed against an order of conviction, under Section 4, U.P. Prevention of Adulteration Act, (VI (6) of 1912), recorded by a Magistrate of First Class of Gonda & upheld by the learned Ses. J. of the same place.

2. The applicant had sold 'ghee' which, on a chemical analysis, was found to be "grossly adulterated." The report of the public Analyst shows that the sample of the 'ghee' sold by the applicant contained matter of ingredient, viz., fat & oil, which was different from & not of the same nature, substance or quality as 'ghee.'

3. The sole point for consideration in this revision is whether the conviction is justified on a correct interpretation of Section 4, U. P. Prevention of Adulteration Act, which is in these terms:

"4 (1) Whoever sells to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance or quality of the article or drug demanded by such purchaser, or sells or offers or exposes for sale or manufactures for sale any article of food or any drug which is not of the nature, substance or quality which it purports; to be or which is sold or exposed for sale in a manner contrary to any regulations issued by the local Govt. under Sub-section (f), (g), or (h) or Section 14 shall be punished for the first offence with fine which may extend to two hundred rupees & for a second or any subsequent offence with fine which may extend to one thousand rupees or imprisonment of either description not exceeding three months of both:

Provided that no article shall be deemed to have been sold to the prejudice of the purchaser in the following cases, that is to say-

(a) where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, & not fraudulently to increase the bulk, weight or measure of the food or drug or conceal the inferior quality thereof:

(b)

(c)

(d)

(2)"

4. It would thus appear that in order to establish an offence, the penalty for, which has been provided for in Section 4, U.P. Prevention of Adulteration Act, the prosecution must establish the sale "to the prejudice of the purchaser" of any article of food, which is not of the nature, substance or quality demanded by such purchaser. In this case the prosecution has succeeded proving that the applicant had sold the 'ghee' which was not of the nature, substance or quality of pure 'ghee', which was demanded by the purchaser.

5. On behalf of the applicant it has, however, been contended that the prosecution has entirely failed to prove that the sale in question was "to the prejudice of the purchaser" as laid down in the proviso to Section 4; in other words, it has not been proved that the matter or ingredient, which had been used for adulteration was injurious to the health of the purchaser. Undoubtedly it has not been shown that the fat or oil mixed with the 'ghee' sold was in any manner injurious to the health of the purchaser.

6. The above contention entirely overlooks the wordings of Clause (a) of the proviso. In a case like this even if the matter or ingredient added to the article of food is not injurious to the health of the purchaser & if it is shown that the addition was required for the production or preparation of the article the sale would not be deemed "to the prejudice of the purchaser," but if, on the other hand, it is shown that the addition was made fraudulently to increase the bulk, weight or measure of the food or to conceal the inferior quality thereof the sale shall be deemed "to the prejudice of the purchaser." In the case before us, it has been established beyond doubt that the addition of fats & oils which was apparently not injurious to the health of the purchaser, was, made with the object of increasing the bulk of the 'ghee' & its weight & this was obviously done fraudulently. It follows, therefore, that even according to the proviso to section 4, the sale was. "to the prejudice of the purchaser," & as such it was covered by Section 4, U. P. Prevention of Adulteration Act.

7. In this view of the matter, the conviction of the applicant was fully justified & there is no reason whatsoever to interfere, with it or the sentence imposed, in this revision. The revision is accordingly rejected.