

Supreme Court of India

Masta Singh vs Union Territory, Chandigarh on 30 January, 1979

Equivalent citations: (1979) 4 SCC 714, 1979 (11) UJ 391 SC

Author: S M Ali

Bench: A Koshal, S M Ali

JUDGMENT S. Murtaza Fazal Ali, J.

1. In this appeal by special leave the appellant had been convicted under Section 16(1)(i) read with Section 7(i) of the Prevention of Food Adulteration Act, 1954 and sentenced to six months rigorous imprisonment and a fine of Rs. 1,000/-. The prosecution case was that on the 28th of September, 1971, P W 1 the Food Inspector found the appellant Masta Singh having in his possession about 10 K Gs. of cow's milk carried for a sale in a drum. He demanded a sample and after purchasing 24 ounces of milk and making the usual parts he sent the same to the Public Analyst for examination. There is absolutely no evidence on the record to show as to whether or not the sample of milk taken by the Food Inspector was meant for sale or that it was cow's milk. PW. 1 has no doubt stated in his evidence that the milk was carried in a drum and was cow's milk but he does not explain from what source he came to have this knowledge. In fact the Food Inspector in his report to the Public Analyst (item No. 23) has clearly stated that in the container from which the sample was taken, nothing was mentioned as to the nature of the milk Further more, P W. 2 has admitted in his cross-examination that the appellant had told the Food Inspector that the milk was 'seprata'. Apart from this there was nothing to show that the milk alleged to have been sold was cow's milk. The evidence indicates that it was not cows milk, but 'saprata' Even on the question whether the milk was meant for sale there is absolutely no evidence on the record except the ipso dixit of P.W. 1 which is also so vague that no court can rely on such a statement. P W. 1 does not say on what basis or on what material he formed the opinion that it was cow's milk. Secondly, the evidence of PW 1 is contradicted by PW 2. In this state of the evidence it cannot be held that the charge framed against the appellant was proved. The case appears to have been very badly conducted by the prosecution and presumably an innocent person has been subjected to prosecution which lasted for quite a long time including five years in this Court. We should have expected the prosecution to produce proper evidence in the court before launching the prosecution against the appellant. In these circumstances, therefore, we find that there is absolutely no evidence to prove the charge framed against the appellant. The appeal is accordingly allowed and the appellant is acquitted of the charges framed against him. The appellant who is on bail will now be discharged from bail bonds. Fine if paid already must be refunded.