

Supreme Court of India

Nortan Mal vs State Of Rajasthan on 18 January, 1995

Equivalent citations: 1995 CriLJ 2661, 1995 Supp (2) SCC 581

Bench: M Punchhi, K J Reddy

ORDER

1. Almost two decades back, on 13-8-1976, the Food Inspector purchased from the appellant Chilly powder for analysis in accordance with the Prevention of Food Adulteration Act, 1954 and the Rules framed thereunder. Under the Rules, the variables of chilly powder are provided in item A.05.05.01. Total ash permissible is not more than 8 percent, by weight. Here, according to the Public Analyst, the total ash found in the sample obtained from the appellant was 8.38 per cent. by weight. There was, thus, excess of 38 per cent. by weight - almost a 300th part of the substance. Not only is the variable minimal (for that alone could be no defence), but there could be a possibility of error of judgment in analysis. The functions of the Public Analyst being that of an expert, his word in that regard in the normal circumstances is to be given considerable weightage. But the same cannot be put at the pedestal of being the gospel truth. The statute has plenty of flexibility in which the Court can fish to arrive at a proper solution. The adulteration found in the instant case being marginal, the possibility of there being an error of judgment in analysis and the matter being very old, as mentioned at the outset, we think it would be unsafe to uphold the conviction of the appellant as was recorded by the High Court in reversal of that of the trial Court who had initially acquitted the appellant of the charge. In this view of the matter, we allow the appeal, set aside the conviction and sentence of the appellant and acquit him of the charge.