

Supreme Court of India

P.N. Muthu And Co. And Another vs Food Inspector, Tellicherry ... on 18 January, 1994

Equivalent citations: AIR 1994 SC 1759, 1995 (1) BLJR 439, 1994 CriLJ 2251, JT 1994 (1) SC 102, 1994 (1) SCALE 93, 1994 Supp (1) SCC 601, 1994 (1) UJ 239 SC

Bench: K J Reddy, G Ray

ORDER

1. This matter arises under the Prevention of Food Adulteration Act ('Act' for short). The first appellant (original accused No. 1) is a firm and the second appellant (original accused No. 4) is the managing partner of the said firm. They alongwith three others A-2, A-3 and A-5 were tried for offences punishable under Sections 16(1)(i) and (ii) read with 17(1)(h), 17(1)(a)(ii), 7(i) and 2(1a)(a) and (m) of the Act. The trial court acquitted all of them. The Food Inspector-complainant filed an appeal in the High Court against the order of acquittal and the High Court allowed the same as against these two appellants. The first appellant is sentenced to pay a fine of Rs. 2,500/- and the second appellant is sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs. 1,000/- in default of payment of which to further undergo simple imprisonment for one month. The acquittal of the other accused was, however, confirmed. Hence the present appeal.

2. Appellant No. 1 is a firm and appellant No. 2 is its managing partner. The two remaining partners figured as A-2 and A-3. One P.P. Aboobacker, Proprietor of a shop at Tellicherry figured as A-5. Appellant No. 1 - the firm is a partnership firm carrying on the business as General Merchants and Commission Agents at Mysore in the State of Kanrataka. The said firm is also a wholesale dealer in refined cotton seed oil with the brand name of "Seven Hills" and the same was manufactured by M/s. Ravi Vegetable Oil Industries, Davengere. The oil is supplied in barrels of 180 kgs. each to M/s. H. Rajagopal & Co., Mysore who used to repack the oil in tins of 15.5 kg. each with their seal. According to the prosecution the appellant firm who is a wholesale dealer purchased such packed tins and used to farther sell them to other traders such as co-accused P.P. Abbobacker. While so, the Food Inspector on 17.11.79 inspected the shop of P.P. Abbobacker and purchased 600 grams of cotton seed oil and the Food Inspector followed the necessary formalities and the samples were sent to the health authorities for analysis. The Food Inspector took the other tins found there into custody and also the cash bill issued to A-5 by A-1. According to the prosecution the samples were adulterated. The sale of oil by A-5 to the Food Inspector is not in dispute. A-1 to A-4 also admit that they have sold the articles to A-5. A-5 pleaded that he was protected under Section 19(2) of the Act since he sold the cotton seed oil to the Food Inspector in the condition in which he purchased the same from A-1, the firm. Now, coming to the case against A-1 to A-4, the trial court held that Rule 7(3) was not complied with since it is not proved that within 45 days the report of the Analyst was despatched to the local health authorities. The trial court further held that Rule 17 and Section 11 also were not complied with and there was likelihood of the samples being mixed up. The High Court in an elaborate judgment considered every reason given by the trial court.

3. The report of the Analyst clearly shows that the samples were adulterated. The High Court having examined the relevant dates gave a clear finding that there was no violation of Rule 7(3) at all and that the local health authorities received the report well within the prescribed time and the view taken by the High Court is perfectly correct. Likewise the High Court has also considered the other

ground like the violation of Rule 9(A) and has rightly held that the local health authorities strictly complied with the mandate given by Rule 9(A) and even otherwise the sample also was analysed by the Central Food Laboratory and there was no prejudice caused to the accused. The High Court has considered all the grounds and has rightly held that the Magistrate has grossly erred in acquitting the accused since admittedly the second appellant P. Rangaswamy (original accused No. 4) is a managing partner. He alongwith the firm the first appellant was held liable and the other two partners namely A-2 and A-3 were acquitted. We see no grounds to interfere. The appeal is dismissed accordingly.