

Durgesh Kumar Agarwal vs The State Of Jharkhand on 9 May, 2023

Author: Sanjay Kumar Dwivedi

Bench: Sanjay Kumar Dwivedi

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2890 of 2013

Durgesh Kumar Agarwal

Versus

1. The State of Jharkhand.
2. K.P. Singh, Food Inspector,
Jamshedpur Camp,
Seraikella-Kharsawan.

..... Petitioner

..... Opposite Parties

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Navneet Sahay, Advocate. For the State : Mr. Shailesh Kumar Sinha, A.P.P.

07/ 09.05.2023 Heard Mr. Navneet Sahay, learned counsel appearing for the petitioner and Mr. Shailesh Kumar Sinha, learned A.P.P. for the State.

2. This petition has been filed for quashing of the entire criminal proceeding including the order taking cognizance dated 16.01.2012, by which cognizance for the offence under Section 16(i)a(i)(ii) of the Prevention of Food Adulteration Act, 1954 has been taken against the petitioner, in connection with G.O. No. 124 of 2011, pending in the court of learned Judicial Magistrate, Seraikella.

3. Learned counsel appearing for the petitioner submits that the said Act of 1954 was repealed in light of Section 97 of the Food Safety and Standards Act, 2006, in spite of that the learned court has taken the cognizance without applying its judicial mind.

4. Learned A.P.P. appearing for the State submits that Food Safety and Standards Act, 2006 came into effect with effect from 05.08.2011 and has replaced the earlier Act, i.e. Prevention of Food Adulteration Act, 1954 vide Government of India notification dated 04.08.2011 and the sample from the shop has been collected on 10.05.2011. He further submits that there is no illegality in the cognizance order.

5. In view of such submissions of the parties, the court has perused the order taking cognizance dated 16.01.2022 and finds that the word cognizance and Sections are filled in the blank space, which suggests that there is non-application of judicial mind.

6. Accordingly, the cognizance order dated 16.01.2012, by which cognizance for the offence under Section 16(i) a(i)(ii) of the Prevention of Food Adulteration Act, 1954 has been taken against the petitioner, in connection with G.O. No. 124 of 2011, pending in the court of learned Judicial Magistrate, Seraikella, is hereby, set aside.

7. The matter is remitted back to the learned court concerned to pass a fresh order on the point of cognizance in accordance with law.

8. In view of the above observation, this petition is disposed of.

(Sanjay Kumar Dwivedi, J.) Amitesh/-