

# Yashpal vs Kamlesh Jamra on 6 February, 2024

**Author: Vijay Kumar Shukla**

**Bench: Vijay Kumar Shukla**

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IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA  
ON THE 6<sup>th</sup> OF FEBRUARY, 2024  
CRIMINAL REVISION No. 2063 of 2022

BETWEEN: -

YASHPAL S/O RUPCHANDRA BAFNA, AGED ABOUT 51  
YEARS, OCCUPATION: VYAPAR MAKAN NO. 77 ROAD  
NO. 4 KALAKHET MANDSAUR (MADHYA PRADESH)

(BY SHRI VISHAL PATIDAR - ADVOCATE)

AND

1. KAMLESH JAMRA OCCUPATION: KHAD  
SURAKSHA ADHIKARI KHAD AVAM OSDI  
PRASHASAN MANDSAUR (MADHYA PRADESH)
2. STATE OF MP THROUGH JILA MAGISTRATE  
MANDSAUR (MADHYA PRADESH)

(BY SHRI TARUN PAGARE - PUBLIC PROSECUTOR)

This revision coming on for orders this day, the following:

ORDER

The present revision is filed under section 397/401 Cr.P.C. being aggrieved by the order dated 28.2.2022 passed by the Appellate Tribunal under section 70 of Food Safety and Standards Act, 2006 (hereinafter referred to as 'the Act').

2. The appellant has been convicted under section 51 of the Act by Adjudicating Officer/District Magistrate, Mandsaur in case No. 41/B-121/2020- 21 whereby for violation of section 26(2)(II) of the Act, a fine of Rs.2 Lacs has Signing time: 2/6/2024 5:57:59 been imposed on appellant by virtue of section 51 of the Act.

3. The said order was challenged under section 70 of the Act before the Appellate Tribunal. By the impugned order, the Appellate Tribunal has dismissed the appeal and affirmed the order of

Adjudicating Officer/District Magistrate, Mandsaur.

4. Facts of the case are that on 4.6.2020, complainant Food Safety Officer, Mandsaur, Kamlesh Jamra along with Tahsildar, Mandsaur visited Shree Enterprises at Industrial Area, Jaggakhedi, Mandsaur in which food item Mawa/Khoya was being stored in a huge quantity for which the godown of Shree Ji Enterprises was sealed by District Administration on a previous date 30.5.2020. On the day of visit by Food Safety Officer, Firm proprietor was present who showed himself as owner of the firm and disclosed his name as Yashpal Bafna. On being inspected it was found that 510 baskets were full of Mawa/khoya. On being suspicion of adulteration, complainant had purchased 2 kg. Mawa for the purpose of sampling and same was sent for analysis to public Analyst Bhopal. The report of analyst were received in which it was confirmed that food item seized from the godown of appellant was sub-standard.

3. Both the courts below have recorded a finding that applicant has violated the provisions of section 51 of the Act for storing substandard food item ie.. Mawa/Khoya.

4. After arguing for some time, learned counsel for applicant submitted that he is not challenging the order impugned on merits but confined his arguments on the quantum of sentence. It is submitted that applicant is owner of Shree Ji Enterprises at Industrial Area, Jaggakhedi, Mandsaur and he allowed the farmers to store Mawa in his store because of lock down. He is neither manufacturer nor retailer of Mawa/khoya. Further the alleged seized food article Signing time: 2/6/2024 5:57:59 has not been found unsafe for human consumption and it was found substandard.

5. Counsel for the State supports the impugned order.

6. After hearing learned counsel for parties and taking into consideration that allegation against the applicant is that he stored substandard food item in his warehouse and he is neither manufacturer nor retailer of the said article, this Court is of the view that in the interest of justice penalty amount of Rs.2 Lacs is reduced to Rs.1 Lac. If the reduced fine amount is not already deposited, the said amount shall be deposited within a period of two months from today. If Rs.2 Lacs has already been deposited, the trial court shall refund Rs.1 Lacs to the appellant.

With the aforesaid, the revision is partly allowed by maintaining the conviction, however reducing the fine sentence from Rs. 2 Lacs to Rs.1 Lac.

C.c. as per rules.

(VIJAY KUMAR SHUKLA) JUDGE MK Signing time: 2/6/2024 5:57:59