

The State Of Madhya Pradesh vs Kishore Lalwani on 7 August, 2024

Author: Prem Narayan Singh

Bench: Prem Narayan Singh

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH
ON THE 7th OF AUGUST, 2024
CRIMINAL APPEAL No. 2530 of 2023
THE STATE OF MADHYA PRADESH
Versus
KISHORE LALWANI

Appearance:

Shri Vinod Thakur, learned Govt. Advocate for the appellant
Shri Vishal Patidar, learned counsel for the Respondent

ORDER

The appellant State has filed the present Criminal Appeal under Section 378(3) of Cr.P.C. being aggrieved by the judgment dated 15.11.2022 passed in Criminal Case RCT No.523/2013 passed by Judicial Magistrate First Class, District Ratlam whereby the learned trial Court has acquitted the respondent from the charges under Section 51 of Food Safety and Standards Act, 2006 and Section 59(1) of Prevention of Food Adulteration Act, 2006.

2. Heard on the question of admission.

3. Learned Govt. Advocate has submitted that the learned trial court has committed grave error of law and facts in acquitting the respondents from the charges under 51 of Food Safety and Standards Act, 2006 and Section 59(1) of Prevention of Food Adulteration Act, 2006. Learned trial Court has failed to consider that the prosecution has very well complied with 2 CRA-2530-2023 the provisions of Food Safety and Standards Act, 2006 and thereafter on completion of due formalities, charges were framed against the respondent. Learned trial Court has passed the wrong order without considering the report received from National Food Laboratory, Ghaziabad. Therefore, the order of acquittal suffers from legal infirmity causing injustice and prejudice to the appellant, hence the same deserves to be set aside, therefore, counsel prayed for grant of leave to appeal.

4. Learned counsel for the respondent opposed the contentions and submitted that the reasons recorded by trial Court are correct under the provisions of Food Safety and Standards Act, 2006. The said sample was taken on 15.10.2011, but it has been sent to inspection on 17/10/2011 (i.e.) after two days delay. The delay has not been properly explained and holiday does not matter in this

regard. Similarly as per Sections 16 & 18 of Fertilizer Adulteration Prevention Act, 1955 40 drops of Formalin solution has to be dropped in entire milk wherein 40 drops has been dropped in every sample bottles of milk. The signatures of Food Inspection Officer and Investigating Officer was also attested after one week. As such the finding of learned trial Court appears to be just and proper and the learned trial Court has passed the order of acquittal after proper appreciation of evidence available on record. Hence, the judgment of acquittal is not suffering from any infirmity and impropriety.

5. I have heard the counsel for the State and perused the record.

6. Moreover in conspectus of the aforesaid discussions in entirety the 3 CRA-2530-2023 finding of the learned trial Court appears to be proper and immaculate. It is well settled principle of law that unless the judgment of acquittal is palpably wrong or grossly unreasonable and unrealistic, interference in the application for leave to appeal filed by the petitioner is not called for.

7. On this aspect, the law laid down by Hon'ble Apex Court in a recent judgment of Ballu @ Balram@ Balmukund and Anr. Vs. State of M.P. [2024 Law Suit (SC) 279] decided on 02.04.2024 , is worth referring here :-

"20. The High Court could have interfered in the criminal appeal only if it came to the conclusion that the findings of the trial Judge were either perverse or impossible.....

21. In any case, even if two views are possible and the trial Judge found the other view to be more probable, an interference would not have been warranted by the High Court, unless the view taken by the learned trial Judge was a perverse or impossible view."

8. In view of the aforesaid, the application of leave to appeal against acquittal is hereby dismissed. Resultantly, this appeal is hereby dismissed.

9 . Registry is directed to send a copy of this order to the trial Court concerned for information.

(PREM NARAYAN SINGH) JUDGE sumathi