

# Rahul Jain vs The State Of Madhya Pradesh on 27 February, 2024

**Author: Gural Singh Ahluwalia**

**Bench: Gural Singh Ahluwalia**

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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA  
ON THE 27th OF FEBRUARY, 2024  
MISC. CRIMINAL CASE No. 7719 of 2024

BETWEEN: -

RAHUL JAIN S/O SHRI ANIL KUMAR JAIN, AGED  
ABOUT 31 YEARS, OCCUPATION: PROPRIETOR  
OF RAHUL TRADERS NEAR NARAYAN TALKIES  
HARDA DISTRICT HARDA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ISHTEYAQ HUSSAIN - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH  
FOOD INSPECTOR JAGDISH PRASAD LAVANSHI  
GOOD AND MEDICINE DEPARTMENT DISTRICT  
HARDA (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI DILIP PARIHARI - PANEL LAWYER )

This application coming on for admission this day, the court  
passed the following:

ORDER

1. This application under Section 482 of Cr.P.C. has been filed against order dated 22.01.2024 passed by Chief Judicial Magistrate, Harda in RCT No.176/2020, by which, an application filed by the applicant under Section 78 of the Food Safety and Standards Act, 2006, has been rejected.

2. It is submitted by counsel for the applicant that applicant is seller of Pan Masala and is facing criminal prosecution under various provisions of Food Safety and Standards Act, 2006. Applicant moved an application under section 78 of the Food Safety and Standards Act, 2006 for impleadment of the manufacturer as co- accused. However, the said application has been rejected. Challenging the same, it is submitted by counsel for the applicant that since the applicant is an ordinary seller,

therefore, manufacturer is equally responsible as per the provisions of Food Safety and Standards Act, 2006.

3. Considered the submissions made by counsel for the applicant.

4. Trial Court has rejected the application mainly on the ground that the applicant could not produce any bill to show that it was purchased from the manufacturer. Under these circumstances, it would not be safe to implead the manufacturer.

5. Counsel for the applicant could not point out any perversity in the said order. Unless and until it is prima facie established by the applicant that the article which was seized from his possession was purchased by him from the manufacturer in the same condition in which it was seized. The industry whose name is mentioned, cannot be prosecuted in absence of any prima facie sufficient material to indicate the criminal liability of the so called manufacturer.

6. Under these circumstances, this Court is of the considered opinion that the Trial Court did not commit any mistake by rejecting the application. The application fails and is hereby dismissed.

(G.S. AHLUWALIA) JUDGE JP JITENDRA KUMAR PAROUHA DN: c=IN, o=HIGH COURT OF MADHYA PRADESH, ou=PRINCIPAL BENCH INDORE, 2.5.4.20=a650f9cd964b96221568096ac01ab1bf019e0b76f6fc652f893c6324a2f64a5a, postalCode=482001, st=Madhya Pradesh, serialNumber=627378D3EE51220F5E81130EECF5ABBEC55EBB6B78033E5FF10402B19143AD99, cn=JITENDRA KUMAR PAROUHA Date: 2024.03.12 01:50:37 -07'00'