

Ranjit Kumar Sarkar Vs. State of Assam

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Court : Guwahati

Decided On : Apr-01-2003

Judge : Amitava Roy, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#); [Prevention of Food Adulteration Act, 1954](#) - Sections 7 and 16

Appeal No. : Criminal Revision No. 379 of 1995

Appellant : Ranjit Kumar Sarkar

Respondent : State of Assam

Advocate for Def. : None

Advocate for Pet/Ap. : S.S. Sharma, Adv.

Judgement :

Amitava Roy, J.

1. Heard Mr. S. S. Sharma, learned counsel for the petitioner. None appears for the State of Assam.

2. This Revision petition is of the year of 1995. I am therefore not inclined to adjourn the hearing any further.

3. The petitioner is before this Court being aggrieved by the judgment and order dated 17.5.1995 passed by the learned Additional Sessions Judge, Sonitpur, Tezpur in Criminal Appeal No. 15 (S-4) 92 affirming the judgment and order dated 27.10.1992 passed by the learned Chief Judicial Magistrate, Sonitpur, Tezpur in Case No. 793 of 1984 convicting the petitioner under Section 7/16 of the Prevention of Food Adulteration Act, 1954 and sentencing him to suffer rigorous imprisonment for 1 (one) year and to pay a fine of Rs. 2000 and in default, to undergo rigorous imprisonment for further, 3 (three) months.

4. The prosecution case in short is that on 13.6.1984 the Ice Factory of the petitioner was inspected by Sri S. N. Mazumdar, Food Inspector of Sonitpur, Tezpur, in course of which he found 'Milk Ice Candy' manufactured, stored and exposed for sale for human consumption there. He took a sample of Milk Ice Candy for analysis from the petitioner and after observing the necessary formalities, the sample was sent for analysis. The report having disclosed that the same was adulterated, prosecution was lodged against the petitioner. During the trial witnesses were examined in support of the prosecution case. The petitioner was examined thereafter under Section 313 Cr PC. On the conclusion of the trial, the petitioner was convicted and sentenced as above. His appeal against the conviction and sentence also failed.

5. In course of arguments, the learned counsel for the petitioner, without prejudice to the stand taken by the petitioner in his defence has argued that, in view of lapse of about 18 years from the date of seizure and the ordeal of trial and the proceedings thereafter resulting in physical and mental sufferings of the petitioner it is a fit case where this court would commute the sentence of the imprisonment to one of fine only. In support of his submission. Mr. Sharma has placed reliance on the decisions of the Apex Court in Sri Krishan Gopal Sharma and another, Appellants v. Government of N.C.T of Delhi, reported in 1996 (1) 258.

6. I have considered the contention raised on behalf of the petitioner, I have also perused the decision referred to above.

7. Admittedly, the prosecution was lodged against the petitioner sometime in the year 1984. The trial proceeded thereafter and the petitioner was convicted. The

petitioner preferred an appeal which was dismissed and then in 1995 he approached this court. Though the operation of the impugned judgment and order was suspended by this court while issuing Rule, the same remains pending for final disposal till date. There is nothing on record to indicate any other adverse antecedent of the petitioner, that he had been involved in similar contravention of the provisions of the Act and that he had suffered conviction thereafter. Mr. Sharma has apprised the Court that the petitioner in fact is a chronic diabetes patient and is presently aged about 65 years.

8. In view of the above, I am satisfied that it is a fit case to commute the sentence of imprisonment to one of fine. No useful purpose could be served to send the petitioner who is aged and ailing, to jail at this distant point of time. The sentence of imprisonment is thus converted into one of fine of Rs. 10,000. The petitioner would now deposit a fine of Rs. 12,000 within a period of 3 months herefrom before the learned trial court and intimate the appropriate authority of the State Government about the same. The state Government would, there open formalise it under Section 433 of Cr PC by passing appropriate orders under the said provision of the Code. In case, the petitioner fails to pay the fine as ordered, he would serve the sentence as imposed by the learned trial court and confirmed in appeal.

With the above directions, this criminal revision stands disposed. No costs.

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