

State of Maharashtra Vs. Muzzaffar Hussaln Saifuddln and ors.

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SooperKanoon Citation : sooperkanoon.com/355877

Court : Mumbai

Decided On : Jul-06-1988

Reported in : 1989(1)BomCR308

Judge : S.C. Pratap and ;A.D. Tated, JJ.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 7 and 16; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 386; Prevention of Food Adulteration Rules, 1955 - Rules 9, 16, 17 and 18

Appeal No. : Criminal Appeal No. 1021 of 1980

Appellant : State of Maharashtra

Respondent : Muzzaffar Hussaln Saifuddln and ors.

Advocate for Def. : Anita A. Agarwal, Adv. for respondent Nos. 1 to 3, ;V.B. Ganatra and ;L.V. Ganatra, Adv. for respondent Nos. 4 to 12

Advocate for Pet/Ap. : S.B. Patil, Adv.

Disposition : Appeal dismissed

Judgement :

S.C. Pratap, J.

1. This appeal seeks to challenge the order of acquittal recorded in favour of the accused by the learned trial Magistrate in a prosecution under the Prevention of Food Adulteration Act.

2. The facts and circumstances leading to the prosecution have been set out by the trial Magistrate in second paragraph of his judgment. It is needless to repeat the same. The acquittal was on several grounds. As seen from the impugned judgment, there are several infirmities in the case of the prosecution. As held by the trial Magistrate, even the panchanama was not produced before the Court. Then again despite several opportunities no panch was examined. Moreover, what was sold was not besan flavour but vatana flour. The reports exhibits 96 and 97 of the Public Analyst also do not support the prosecution. There has also been infraction of Rules 9(j), 16(b), 17 and 18 of the Rules framed under the Act. The impugned judgment gives good and sound reasons in support of the acquittal. The learned Public Prosecution was unable to satisfy us as to how the acquittal was erroneous. We are even otherwise unable to persuade ourselves to take of the matter a view different from the one taken by the learned trial Magistrate.

3. Even if another view the matter was plausible or possible, that by itself could be no ground for interfering with the view of the learned trial Magistrate making the acquittal order recorded by him. Well settled is the position that where two reasonable conclusions can be drawn on the evidence on record, the High Court should as a matter of judicial caution, refrain from interfering with the order of acquittal recorded by the Court below. If the main grounds on which the Court below has based its order acquitting the accused, are reasonable and plausible, and cannot be entirely and effectively dislodged or demolished, the High Court should not disturb the acquittal. See : 1979 CriLJ51 Ganesh Bhavan Patel and another v. State of Maharashtra.

4. Before concluding we may in passing mention that the sale in the instant case was of 18th January, 1972 i.e. over 16 years ago. The acquittal order is of 12th May, 1980 over eight years ago.

5. In the result, this appeal fails and the same is dismissed.

