

Bhagat Stores and ors. Vs. State

Bhagat Stores and ors. Vs. State

SooperKanoon Citation : sooperkanoon.com/358034

Court : Mumbai

Decided On : Aug-31-1981

Reported in : 1982CriLJ444

Judge : K.M. Mishra, Actg. J.C.

Appellant : Bhagat Stores and ors.

Respondent : State

Judgement :

ORDER

K.M. Mishra, Actg. J.C.

1. The petitioners Nos. 2 and 3, partners of petitioner No. 1, which is a partnership firm dealing in foodgrains, were each convicted and sentenced to nine months' Rule I. and a fine of Rupees 1,000/- Under Sections 7 and 16 of the Prevention of Food Adulteration Act, 1954, to be hereafter referred as 'the Act'. The firm was also convicted and sentenced to pay a fine of Rs. 1,000/-under the aforesaid Sections. In appeal that was preferred the learned sessions J Judge merely reduced the sentence imposed on petitioners Nos. 2 and 3 from nine months to six months. Being aggrieved by the aforesaid decision, the petitioners have now filed this present revision.

2. The following facts are not in dispute. On 17-2-L975 Shri Purshottam Sinari, FoodInspector, PW 1, attached to the Directorate of Health Services, Panaji,

visited the shop of the petitioners and purchased 750 gms, of Jawar from petitioner No. 2A. All the legal formalities were duly observed in the matter of purchase and seizure of the goods. The Public Analyst analysing the sample sent to him reported that it contained damaged grains in excess of the permissible limit. After obtaining sanction from the Drugs Controller, P.W. lodged a written complaint and this is how the petitioners were placed on trial and finally convicted and sentenced as stated above.

3. At the forefront of his argument, the learned Counsel for the petitioners has submitted that the prosecution of the accused was without proper sanction in the sense that there is nothing on record to show that the sanctioning authority had applied its mind which is a basic requirement Under Section 20 (1) of the Act. It is not in dispute that the Drugs Controller of the Directorate of Health Services, Panaji, is the authority to sanction prosecution. Exh. P-6 which is a copy of the order sanctioning the prosecution reads as follows:-

No. DHS/D-C-PFAA-76/89,

Govt. of Goa, Daman and Diu,

Directorate of Health Services,

Office of the Drugs Controller,

Panaji-Goa.

Dated : 23rd April, 1975.

3 Vaisakha, 1897.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com