

Deo Mitra Vs. Rex

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SooperKanoon Citation : sooperkanoon.com/453167

Court : Allahabad

Decided On : Jun-11-1948

Reported in : 1949CriLJ105

Judge : Seth J.

Appellant : Deo Mitra

Respondent : Rex

Judgement :

ORDER

Seth, J.

1. In this case the Sessions Judge of Saharanpur has recommended that the conviction and sentence passed upon the applicant Deo Mitra under Section 4 (I), U. P, Prevention of Adulteration Act be set aside.

2. Deo Mitra was convicted because ha was found selling a bottle of vinegar, which, on examination by the Public Analyst, wag found to be deficient in acetic acid by about 37 percent. It is by no means clear to me what this deficiency means because in a book cited by the Crown counsel before the learned Sessions Judge it was found stated 'Vinegar baa essentially dilute acetio acid generally 4 to 5 per cent, along with a little acetio ether.' How if according to this authority vinegar has only 4 to 3 per cent, of acetio acid, it is difficult to understand how the acetic acid

was deficient by about 37 per cent, in the sample, unless it be that what is meant by the report of the Public Analyst, is that the deficiency was 37 per cent, of 4 to 5 percent. Such a deficiency would, however, be absolutely negligible.

3. I do not agree with the view of the learned Sessions Judge that inasmuch as no standard of purity of vinegar has been fixed by the Government under Section 14 (l) of the Act, an offence under Section 4 of the Act cannot be committed in respect of vinegar. Section 14 (l) of the Act confers a power upon the Government to fix standards whenever they think it proper to do so, but apart from the standard fixed by Government under Section 14 (1), a person may be guilty of an offence under Section 4 (l), if he sells any article of food or any drug which is not of the nature, substance or quality which it purports to be., The question for consideration in this case for the learned Sessions Judge was whether the accused Deo Mitra had sold an article not of the nature, substance or quality of which it purported to be, and the question for his consideration was not whether it was one of . articles in respect of which the Government had made rules under Section 14 (1) of the Act. This point does not seem to have attracted the notice of anybody in the Courts below with the result; that there is no evidence on the record to show that the article sold by Deo Mitra was not of the nature, substance or quality of which it purported to be. The mere fact, that there was a little less acetic acid in the vinegar than is mentioned to be generally found in vinegar, does not bring home the charge to the applicant As already indicated above the difference between the percentage of acetic acid laid down in the book and the percentage of acetic acid found in the sample is insignificant.

4. For the reasons indicated above I accept the recommendation made by the learned Sessions Judge of Saharanpur and order that the conviction and sentence passed upon the applicant Deo Mitra be set aside. Any sums realised from Deo Mitra in pursuance of the order of the Magistrate shall be refunded to him.