

Ram Nath Makru Ram Vs. State

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SooperKanoon Citation : sooperkanoon.com/465032

Court : Allahabad

Decided On : Jan-05-1968

Reported in : 1969CriLJ679

Judge : H.C.P. Tripathi, J.

Appellant : Ram Nath Makru Ram

Respondent : State

Advocate for Pet/Ap. : Mr. C.S. Saran

Judgement :

ORDER

H.C.P. Tripathi, J.

This revision is directed against the order of the temporary Sessions Judge, Allahabad, refusing to interfere with the order of the Magistrate First Class in which he has held that the applicant was selling adulterated curd and has, therefore, committed an offence under Section 7/16 of the Prevention of Food Adulteration Act.

2. According to the prosecution the applicant was found selling curd at his shop on 2.3.1963 at about 8 A.M. Food Inspector Shyamji Srivastava purchased three quarters of a seer of curd on payment of 28 paise as its price from the applicant for

sample which was subsequently analysed by the Public Analyst who reported that it was less in milk fat content by 4.61 per cent than the minimum prescribed standard of 6 per cent. The applicant was accordingly prosecuted for selling adulterated milk product.

3. At the trial applicant stated that he was selling curd of skimmed milk for which he held a licence and, therefore, he had not committed any offence.

4. Mr. C.S. Saran, learned Counsel for the applicant, has contended that on the face of the evidence on record no offence is made out against the applicant and he has been prosecuted on a misapprehension of facts and law. He invited my attention to the licence Exhibit Kha I which shows that the owner of the shop has licence for sale of separated milk and milk products. It is not clear from this licence whether the milk products mentioned is that of the skimmed milk or pure milk. Food Inspector Srivastava has, however, stated that in accordance with the licence which was shown to him the applicant was entitled to sell skimmed milk and products of the skimmed milk. The fact that he paid only 28 paise as the price of three quarter of a seer of curd shows that the curd was of skimmed milk.

5. It is, therefore, obvious that the applicant was selling curd of skimmed milk For which he held a licence and the fat content of which cannot be the same as that of the curd produced from pure milk. The report of the Public Analyst is that he had analysed it not as a product of skimmed milk but of pure milk which is wholly irrelevant for purposes of determining the guilt or innocence of the accused. Thus no case is made out against the applicant.

6. Accordingly the revision is allowed and the orders of the Magistrate and of the Sessions Judge are quashed.