

Pati Ram Vs. State

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Court : Allahabad

Decided On : Sep-22-1981

Reported in : 1982CriLJ387

Judge : P.N. Goel, J.

Appellant : Pati Ram

Respondent : State

Judgement :

P.N. Goel, J.

1. This appeal is directed against the order dated 24-11-1977 passed by V Additional Sessions Judge, Azamgarh convicting and sentencing the appellant Under Section 16 read with Section 7 of the Prevention of Food Adulteration Act, 1954 to undergo R. I. for one year and to pay a fine of Rs. 1,000.

2. According to the prosecution Narendra Nath Singh (P.W. 1) Food Inspector took sample of she-buffalo milk from the appellant on 21-11-1975 at about 7 A. M. in mohalla Dalalghat in the town of Azamgarh, and that the public analyst found the sample adulterated. The appellant did not admit that sample of his milk was taken and that the sample was adulterated.

3. The prosecution examined Narendra Nath Singh and Gulab Hakkami, an employee in the Sanitary Department of the Nagar Palika. The appellant did not examine any witness in defence. The Additional Sessions Judge believed the testimony of the prosecution witnesses as well as the report of the Public Analyst and convicted the appellant.

4. learned Counsel for the parties have been heard and record has been perused.

5. The standard of buffalo milk has been given in item A 11.01.11 of the Rules framed under the Prevention of Food Adulteration Act. The buffalo milk in the State of Uttar Pradesh should contain 6% milk fat and 9% non-fatty solids. The report of the Public Analyst shows that the sample contained 14% milk fat and 5.1% non-fatty solids. In this way it was deficient in non-fatty solids. It is not easily understood as to how the milk fat was 14% as against standard of 6%. In the case of *Puran Singh v. State of U. P.*, 1978 FAJ 168 (All) the buffalo milk in question contained 11% milk fat and 1.9% non-fatty milk solids. The Public Analyst was examined by the Court. He stated that ordinarily it was not possible to take out non-fatty solids out of milk without affecting the fat contents in it. It means that if the non-fatty solids were deficient the milk fat should also be deficient. The case of *Puran Singh* was decided by a Division Bench. The Bench, in the circumstances indicated above could not place reliance on the report of the Public Analyst. In this case the percentage of fat contents is more than the double of the minimum requirement and the non-fatty solids are less than half of the minimum requirement. In these circumstances, the report of the Public Analyst in the present case cannot be taken as correct.

6. In this connection it is noticeable that Narendra Nath Singh simply stated that he had added 16 drops of formalin to the sample. He has not indicated the strength of the formalin. There is no other material on record to indicate the strength of the formalin which was added as a preservative to the sample milk. In the Full Bench decision of *Nagar Swastha Adhikari v. Mangalia*, 1970 All LJ 1049 it was observed that where formalin of 40 per cent strength had been added to a sample of milk in the proportion of two drops to an ounce of milk the same remained fit for accurate and reliable analysis for a much longer period and that where no formalin was

added to a sample of milk the process of souring and ultimately of curdling would be accelerated and might take place within two to three days.

7. Taking into consideration the fact that the strength of formalin was not disclosed by the Food Inspector and that the Public Analyst found fat contents 14% as against 6% it would not be incorrect to say that the result of the analysis is not accurate. In this aspect of the matter the report of the Public Analyst cannot implicitly be accepted. There is no other report of the analysis of the milk in question. As soon as the report of the Public Analyst in the instant case is ignored there remains no material to find that the milk was adulterated. Hence the conviction of the appellant Under Section 16 read with Section 7 of the Act cannot be sustained.

8. The State counsel suggested that the Public Analyst be summoned. Taking into consideration the facts available on the record the summoning of the Public Analyst will not be of any help to this Court.

9. For what has been said above, the appeal is allowed and the conviction and sentence of the appellant Under Section 16 of the Prevention of Food Adulteration Act are set aside. The appellant is on bail to which he shall not surrender. His bail bonds are discharged. Fine if paid by the appellant, will be refunded to him.

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