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

Sultan Shah Vs. State

Sultan Shah Vs. State

SooperKanoon Citation : sooperkanoon.com/475129

Court : Allahabad

Decided On : Apr-10-1973

Reported in : 1973CriLJ1413

Judge : B.D. Gupta, J.

Appellant : Sultan Shah

Respondent : State

Judgement :
ORDER

B.D. Gupta, J.

1. The applicant in this case has been convicted for the offence punishable under Section 7/16 of the Prevention of Food Adulteration Act. The sentence awarded is rigorous imprisonment for the period already undergone and fine in a sum of Rs. 500/-. After hearing learned Counsel for the parties and scrutinising the material on record. I find myself unable to maintain the finding of conviction,

2. The facts found by the Courts below are that on the morning of the 3rd of December. 1969 the applicant was found selling milk which, on analysis by the Public Analyst, was found to contain 5.5 per cent fat and 7.1 per cent non-fatty solids. The standard applied was in regard to cow milk- The Prevention of Food Adulteration Rules, 1955. as applicable to the State of Uttar Pradesh, lay down

that cow milk shall contain not less than 3.5 per cent fat and not less than 8.5 per cent of non-fatty solids, It will be observed that in the present case the percentage of fat was over 60 per cent higher than the required minimum, whereas non-fatty solid content was 16 per cent below the minimum required by the rule. The finding of conviction of the Courts below is based on the shortage in non-fatty solid content by 16 per cent.

3. The principal contention raised on behalf of the applicant is that keeping in view the heavy excess found in the fat content it is not possible to hold that the milk sold by the applicant w.as not pure by reason merely of the shortage in the non-fatty solid content of the said milk- Reliance has been placed by learned Counsel on a decision recorded by S. D. Singh J. on 11-3-1968 in Cri. Revn. No. 1475 of 1966. (Bhoop Singh v. Nagar Swastha Adhikari). There is no controversy that the decision quoted above fully supports the applicant's contention that in view of the report of the Public Analyst the conviction of the applicant cannot be maintained. The judgment recorded by S. D. Singh J. is well supported by decisions of Courts in England and, if I may say so with respect, does not appear to admit of any doubt as to its correctness- There is nothing to indicate that the aforesaid decision has ever been doubted, nor has the said decision been challenged by learned Counsel for the State. The ratio decidendi of the said decision, to put it briefly, is that the fact that the fat content found in the milk sold is much (higher than the minimum prescribed by the Rules leads necessarily to the inference that no water had been added to the milk and that in such a case the mere circumstance that the non-fattv solid content was below the standard prescribed by the Rules could only iustify the inference either that the cow. from the udders of which the milk was drawn, was not given the proper feed or that the Public Analyst's report was erroneous, but not the inference that the milk in question was not pure. I see no reason to justify a different view and the result is that this revision must be allowed.

4. Accordingly, this revision is allowed, the conviction of the applicant and the sentence awarded to him are set aside and the applicant is acquitted. Such fine, if any as may have already been realised from the applicant shall be refunded to him.

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