

Benarsi Das Vs. Emperor

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Court : Allahabad

Decided On : Mar-27-1930

Reported in : 125Ind.Cas.503

Judge : Barjor Jamshedji Dala, J.

Appellant : Benarsi Das

Respondent : Emperor

Judgement :

Barjor Jamshedji Dala, J.

1. This application must succeed on both the grounds raised on be half of the applicant. The applicant has been convicted of an offence under Section 4 of the United Provinces Prevention of Adulteration Act VI of 1912 (Local). There is, a mandatory injunction in Section 15(2) of the Act that every summons issued in a prosecution under Section 4 and Section 10 shall specify particulars of the offence charged and the name of the prosecutor besides other information. In the summons no particulars were given; nor was the name of the prosecutor given. The particulars were essential in this case because even now I have not understood the exact reason or rather the exact charge on which the applicant has been convicted. If the particulars had been stated in the charge a Court of revision would have had an opportunity to test the particulars and discover whether they amounted to an offence under Section 4. What the learned Judge says, I am

afraid, I am unable to understand. What happened in this case was that, according to the Magistrate, 21 canisters of ghee were found in a store room of the applicant who sells ghee ordinarily as his business. The trial has been so perfunctory that I cannot discover whether every one of the 21 canisters contained adulterated ghee or only one canister. An observation of the Magistrate at the end of the judgment that ghee which was not found adulterated had been detained for a long time makes me believe that the entire quantity was not adulterated. It is very unfortunate that in summary trials no proper care is taken to record evidence and facts in a way to give an accurate idea of facts to the Court of revision. What the learned Judge says is this: It is clear from the evidence as found by the Magistrate that the adulterated ghee was meant for sale and anybody who sells such a ghee does commit an offence under Section 4.' The section, however, makes no mention of storage of adulterated ghee. It will not be profitable to spend any time in solving the puzzle of the language of the Sessions Judge. The Magistrate makes no positive statement at all as to what was the crime that the applicant committed. He has entered into generalities as to the adulteration business going on in a very large number of cities and his belief that the accused would not have tested the ghee before offering it for sale. He also does not trouble himself to decide whether the storing of adulterated ghee is an offence and in what words he would have framed the charge if it had been necessary to frame a charge in this particular case. The task of a Court of revision becomes very difficult when subordinate Courts refuse to disclose what in their opinion was the specific charge on which an applicant has been convicted. For this reason the omission to mention the charge in the summons was highly prejudicial to the applicant and the Sessions Judge could not have thought carefully of this matter when he made the observation that the applicant knew very well what the charge against him was and that the omission of particulars from the charge was merely an irregularity. When this Court after all its training fails to understand the charge, the Session Judge's statement is incorrect that the applicant knew very well what the charge against him was. Possession of adulterated food or drug is not made a crime under the Act. In the present case there was no sale, nor was the substance offered for sale or exposed for sale nor is it said that the applicant manufactured the articles himself for sale. If there had been any evidence that the applicant purchased pure ghee

and adulterate it myself his act would have been covered by the words manufactures for sale I any article of food which is not of the nature, substance or quality which it purrports to be.' The prosecution has been entirely misconceived.

2. I sot aside the conviction and sentence and order the fine, if any recovered from the applicant, to be refunded.

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