

Munna Vs. State

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Court : Allahabad

Decided On : Jan-18-1982

Reported in : 1982CriLJ884

Judge : V.N. Misra, J.

Appellant : Munna

Respondent : State

Judgement :

ORDER

V.N. Misra, J.

1. This is an application in revision by Munna against the judgment and order of Sri J. P. Gupta, III Additional Sessions Judge. Rampur, dated 8-5-1981 by means of which he dismissed Criminal Appeal No. 116 of 1981 and maintained the order of Sri Dharam Pal. Chief Judicial Magistrate, Rampur, convicting the applicant Under Section 7/16. Prevention of Food Adulteration Act.

2. The prosecution case was that on 21-2-1978 at about 11 A. M. the applicant was intercepted by Sri A. A. Khan, Food Inspector, while carrying milk near Panwaria. Civil Lines, Rampur. He disclosed that the milk he was carrying was buffalo milk and the Food Inspector purchased 660 ml. of this milk from the applicant. After having taken this milk the other formalities were gone through and

one of the sealed phiala was sent to the public Analyst who found deficiency of 8% in its fat contents and 40% in its non-fatty solids. Since the milk was found to be adulterated the applicant was prosecuted and has been convicted as aforesaid.

3. This sample of buffalo milk was taken on 21-2-1978. One of the phials in which the sample was kept was sent to the Public Analyst and he reported on 28-3-'78 that the milk was adulterated. After that sanction was given for prosecution of the applicant on 12-12-1978 and the complaint was filed on 23-2-1979. On 1-2-1979 report of the Public Analyst was sent to the applicant, but the applicant got this report on 6-3-1979 i. e. more than one year after the sample was taken. This inordinate delay in launching the prosecution and in furnishing a copy of the report of the Public Analyst to the applicant was not explained.

4. Reference may be made to an un-reported decision of this Court in Criminal Revision No. 1612 of 1962(Gokul Chand v. State) in which 121 samples were sent for analysis. The analysis was to be done after every four days and in this experiment it was found that where cow milk had one drop of formalin as preservative then the milk did not get deteriorated in 210 days and where it had two drops of formalin as preservative it did not get deteriorated for 308 days, but partial deterioration started after 295 days. It was also found that in the matter of preservation of milk there would not be much difference in cows milk and buffalo milk. This conclusion clearly shows that in the maximum period of about ten months the milk would get deteriorated. In the present case, however, copy of the report of the Public Analyst was given to the applicant after one year. Therefore, it is obvious that the milk must have got wholly deteriorated by then. It was, therefore, useless to send it to the Director. Central Food Laboratory at Calcutta for re-analysis and the applicant was denied the right which he had Under Section 13 to get the sample sent to the Central Food Laboratory for re-analysis. Since this caused prejudice to the applicant and the finality of the -report of the Public Analyst was not ascertained, therefore, the applicant could not be convicted

5. This revision is, therefore, allowed and the conviction of the applicant and the sentence imposed on him are hereby set aside. The applicant is on bail. He need not surrender and his bail bonds are hereby cancelled. Fine, if paid, shall be

refunded to him

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