

Munnalal Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Aug-19-2000

Reported in : 2001CriLJ1097; 2001(1)MPHT237; 2000(3)MPLJ5

Judge : Mr. S.C. Pandey, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 13 (2-C); Code of Criminal Procedure (CrPC) , 1974 - Sections 482

Appeal No. : Misc. Criminal Case No. 4171/2000

Appellant : Munnalal

Respondent : State of M.P.

Advocate for Def. : Shri Ramkisan Mehta, Adv.

Advocate for Pet/Ap. : Shri R.N. Roy, Adv.

Disposition : Misc. Criminal Case Dismissed

Judgement :

ORDER

S.C. Pandey, J.

1. This is an application under Section 482 of the Code of Criminal Procedure, whereby the applicant requires this Court to quash the order dated 31-3-2000

passed by Illrd Additional Sessions Judge, Jabalpur in Criminal Revision No. 60/2000 confirming the order of Judicial Magistrate First Class, Jabaipur passed in Criminal Case No. 1366/99 on 2-2-2000.

2. The applicant is a milk vendor. A milk sample was seized from him on 30-9-1983. The milk sample was divided in three parts by the Food Inspector. One sample was sent to the public analyst who found that the milk was adulterated. Consequently, two samples of milk were produced before the J.M.F.C. on 16-2-1984 alongwith the report of the Food Inspector. On 1-3-1984, at the instance of the accused/applicant, one sample was sent to the Director of the Central Food Laboratory, Pune who reported as per Annexure A-2 that the sample could not be analysed as it appears to have decomposed. Thereafter, the third sample, which was being kept in the food office, was directed to be sent by the Magistrate for further analysis to another Director of the Central Food Laboratory, Ghaziabad. The report of the Director of the Central Food Laboratory, Ghaziabad dated 11-3-1987, as per Annexure A-3, was that the sample of milk was adulterated. The applicant raised an objection to the admissibility of the third report dated 11-3-1987, Annexure A-3 of the Director of the Central Food Laboratory, Ghaziabad.

3. The Trial Court as well as the Revisional Court rejected the objection of the applicant and held that the report dated 11-3-1987 on the third sample of milk would be admissible in evidence and could be used by the prosecution.

4. In this application, it is sought to be urged by the learned counsel for the applicant/accused that there cannot be two reports of the Directors of the Central Food Laboratories, The report of the Director of the Central Food Laboratory, Pune dated 16-3-1985, Annexure A-2, was final and the report of the Director of the Central Food Laboratory, Ghaziabad dated 11-3-1987, Annexure A-3, was not admissible in evidence.

5. The Revisional Court has found that the Court had power under proviso to Section 13(2-C) of the [Prevention of Food Adulteration Act, 1954](#) to send third part of sample of milk, if any, for analysis, if the sample sent by the Court to the Director of the Central Food Laboratory is lost or damaged. It has been held that the word 'damaged' used in the proviso aforesaid would include decomposition.

For this purpose, the Court below has relied upon the case of Charanji Lal v. State of Punjab, reported in AIR 1984 SC 80. In view of the decision of the Supreme Court in that case, it is not possible to give anyother interpretation to the word 'damaged' and, therefore, this application under Section 482 of the Code of Criminal Procedure is hereby rejected.

6. However, it would be open to the applicant/accused to argue that looking to the facts and circumstances of the case and the time, that has elapsed, in sending the second and third sample of milk in all probability, the report of the Director of the Central Food Laboratory, Pune dated 16-3-1985, Annexure A-2, is true or in any case it throws a considerable doubt on the report of the Director of the Central Food Laboratory, Ghaziabad dated 11-3-1987, Annexure A-3, who has reported after four years from the seizure of the sample of the milk that it was still intact for analysis. The application is accordingly dismissed.

7. Misc. Criminal Case dismissed.

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