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Narayanaprasad Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : May-06-1983

Reported in : 1984CriLJ556

Judge : M.D. Bhatt, J.

Appellant : Narayanaprasad

Respondent : State of Madhya Pradesh

Judgement :
ORDER

M.D. Bhatt, J.

1. This is the revision of the accused Narayana Prasad, who has been sentenced to six months' rigorous imprisonment and to pay the fine of Rs. 1000/-and in default of fine, to two months' rigorous imprisonment under Section 16(1)(c) of the Prevention of Food Adulteration Act, 1954.

2. Both the Courts below, relying on the oral testimonies of the Food Inspector, P. W. 1 R. D. Dohre and P. W. 3 R. C Jain, who had accompanied the said Food Inspector to the Kirana Shop of the applicant-accused on 26-9-1977, have held that the applicant-accused, on the demand of the Food Inspector to sell him the sample of groundnut oil, whose tins were found kept in the shop, had refused to sell him the sample and had refused to sign the notice, which was intended to be

given to the applicant-accused in this regard. It was equally held by both these Courts that the applicant-accused had told the Food Inspector at the relevant time that the oil was not an item, which was manufactured at his house; and that, whatever, he purchased from the Seths of Dindori, he had been selling the same. On being further asked to produce the bills for purchase of the tins of oil, the applicant-accused had further told him that he had no time to show him any bills, whatsoever; and that, he would not sell the sample of oil to him nor would he sign any papers. Both the Courts have also held that the applicant-accused had told the Food Inspector finally, to go away from his place and to take, whatever action against him, as the Food Inspector may like to take. According to both the Courts, all these overt acts and conduct, as slated above of the applicant-accused and his demeanour amounted to preventing the Food Inspector from taking the sample, as authorised by the provisions of the Act and as such, was punishable under Section 16(1)(c) of the Act. The trial Court convicted and sentenced the applicant-accused to the extent, as stated at the outset. The lower appellate Court equally maintained the same. Hence, now, the present revision.

3. The learned Counsel for the applicant-accused has urged the solitary point that the facts as held proved, by both the Courts below, did not tantamount to 'preventing the Food Inspector from taking the sample'. According to the applicant's counsel, the terms 'refusal' and 'prevention' are not synonymous, and at worst, the case against the applicant-accused would be that of refusal and not of prevention, and such refusal is no offence under Section 16(1)(c) of the Act. In support of his contention, the applicant's learned Counsel has cited Chhedilal v. Medical Health Officer, Faizabad Municipality 1980 Cri L.J 367(All) and Municipal Council Jaipur v. Mangilal 1975 2 FAC 284 : 1975 Cri LJ 1728 (Raj). The learned Government Advocate appearing for the non-applicant-State has, however, contended that the case in question is of prevention', fully covered under Section 16(1)(c) of the Prevention of Food Adulteration Act. In support of his argument, he has cited Municipal Board v. Jhammanlal : AIR1961 All103 and Habjb Khan v. State of M.P. 1971 MPLJ 883.

4. Arguments advanced, are apparently without any merit. It is, no doubt, true that the word 'refusal' and the word 'prevention' are not altogether synonymous, and

have different shades of meaning. As has been explained in the Full Bench decision of Rajasthan High Court reported in Narain Prasad v. State of Rajasthan an act of refusal sometimes may amount to prevention when accompanied by the requisite conduct or demeanour of the accused person. Whether a refusal in any particular case amounts to prevention will have to be decided on the facts and circumstances of each case. Chhedilal v. Medical Health Officer, Faizabad 1980 Cri LJ 367(All), cited by the applicant's learned Counsel has no application to the present case. Since the facts there are quite different from those, present in the instant case. The case cited, is one, where the accused person, on being asked to sell the sample of milk, had simply run away leaving behind the containers with milk and cycle. Nothing else was done by the accused persons and hence, in these circumstances, it was held that the accused persons, at worst, had refused to co-operate with the Food Inspector in selling the sample of milk to him, and it was open to the Food Inspector even in the absence of the accused persons, to take the sample in the presence of the witnesses. Such a case was, hence, held to be one as not of 'prevention'. Another cited case viz. Municipal Council, Jaipur v. Mangilal (1975) 2 FAG 284 : 1975 Cri LJ 1728 (Raj) wherein distinction is sought to be drawn between the two terms 'prevents' and 'refuses', on the strength of certain Dictionary meanings, has also no application to the present case, The cited case was one, where there was no overt act of obstruction but there was a negative approach of the accused in not co-operating with the Food Inspector to accompany him wherever he desired to take him.

5. The present case has more than sufficient overt acts to envelope the accused within the ambit of the offence punishable under Section 16(1)(c) of the Act. It may well, be remembered that the 'prevention', as used in Section 16(1)(c) ibid does not necessarily involve an obstruction by physical force or by threats, though it may include them, ' but there must, be some deliberate act or acts of the accused, which may hinder the Food Inspector from exercising his powers of taking the sample under Section 10(1) of the Act. The word 'preventing' necessarily implies doing of some act by the accused which may actually make it impossible for the Food Inspector to obtain the sample in exercise of his powers; Municipal Board v. Mulukdas Gupta 1971 Cri LJ 705(All) and State of Rajastnan v. Asharaph 1978 FAJ 323(Raj).

6. The facts of the present case are somewhat similar to, and even stronger than those, as present in the Full Bench case of the Rajasthan High Court reported in Narain Prasad v. State of Rajasthan 1978 Cri LJ 1445(supra). This Full Bench case was one, where the accused had refused to take notice and to give the sample to the Food Inspector and had created a row in this regard, and it was held in these circumstances that the conduct of the accused did fall within the mischief of Section 16(1)(c) of the Act. The present case is one which is not a case of mere refusal, but comprises of very many overt acts, and such obstructive and obdurate conduct of the applicant-accused which brought him within the mischief of Section 16(1)(c) of the Act. The applicant-accused, not only refused to sell sample of groundnut oil to the Food Inspector but refused to accept the notice and further refused to sign any papers that the Food Inspector intended to present to him for his signatures. Not only that, his misdemeanour is found to travel much far. The applicant-accused is found to have told the Food Inspector that he would not show any bills of purchase to him and he had no time to show to him any bills nor would he sell the sample to him on any account. The applicant-accused's obstruction and resistance went so far that he finally told the Food Inspector to go away from his place, with a threat that he might take any action against him, as he might choose to take. In such circumstances, when the Food Inspector was so threatened and was asked to get out from the shop, the Food Inspector obviously had not other choice and had no means to take the sample, by exercising any force, which he could not, under the violent and threatening attitude of the applicant-accused. In these circumstances, finding myself in agreement with the findings of the lower appellate Court, I am clearly of the view that the applicant-accused had prevented the Food Inspector from taking the sample from him. His conviction, therefore, is well merited; and equally so, the sentence of imprisonment and fine, as awarded against him.

7. In the result, thus, the revision being without any merit is dismissed; and the order of conviction and sentence as passed by the lower appellate Court is maintained in toto.

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