

Tilo Ram Karam Chad Vs. State

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Court : Delhi

Decided On : Nov-09-1966

Reported in : AIR1967Delhi71

Judge : I.D. Dua, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 7, 10(7) and 20;
Evidence Act - Sections 78(5)

Appeal No. : Criminal Revn. No. 40-D/1966, against order Addl. S.J. Delhi, D/15-9-1965

Appellant : Tilo Ram Karam Chad

Respondent : State

Advocate for Def. : Nanak Chand, Standing Counsel

Advocate for Pet/Ap. : Sher Narain, Adv

Judgement :

(1) In this criminal revision, Tilo Ram accused-petitioner assails his conviction under S. 7/16 of the Prevention of Food Adulteration Act. The learned Magistrate had taken a lenient view of his offence, because he was lame from one leg and had, therefore, instead of sentencing him to imprisonment imposed a fine of Rs.600 and in default to undergo rigorous imprisonment for three months. On

appeal, the learned Additional Sessions Judge further reduced the sentence of fine from Rs.600 to Rs.400 of course maintaining his conviction.

(2) The facts of the case are that on 19-12-1962 Food Inspectors Lekh Raj Bhatt, Ram Gopal and Y.P. Bhatia visited the Jai Bharat Rice and General Mills on Najagrarh road and took four samples of til oil. It is nto denied that the accused had stored til oil manufactured by him. Lekh Raj Bhatt disclosed his identity and purchased 375 grams of til oil for analysis on payment of 62 paise. The sample was divided into three parts and poured into three clean and dry buttles. One of them was handed over to the accused, one retained by the food Inspector and one sent to the Public Analyst. The sample sent to the Public analyst was analysed on 27-12-1962, and found adulterated due to excess of free fatty acids, it is unnecessary to give the details of adulteration at this stage as no point has been sought to be made on this score before me and it is nto disputed that the sample was found adulterated and, therefore, punishable under the Prevention of Food Adulteration Act.

(3) On revision in this court, Shri Sher Narain, learned counsel for the accused-petitioner, has contended that there was no proper sanction for the prosecution. In the memorandum of revision, however, the challenge is against the compliant describing it is as improper and it is submitted that Exhibit P.H. a copy of the resolution authorising the Assistant Municipal Prosecutor under Section 20 of the Prevention of Food adulteration Act to institute and conduct prosecution under the said Act has nto been attested by the legal keeper of records as required by Section 78(5) of the Indian Evidence Act but is attested by the Head Clerk, commissioner's office. Municipal Corporation, Delhi. The contention is that this resolution nto having been properly proved, the compliant should beheld nto to be proper. This point was apparently nto raised in the trail Court because there is no discussion there on, but on appeal it was urged on behalf of the accused and repelled by the learned Additional Sessions Judge on the ground that the Book Manual of papers showed that the commissioner had authorised the head Clerk, Central Office, to certify copies of the municipal records as true copies for purposes of producing them as evidence in Courts of law.

But this apart, the learned Additional sessions Judge also believed the statement of Shri Ganga Ram, Assistant Municipal Prosecutor, that he had been duly authorised by a resolution dated 31-5-1962 to file complaints under Section 20 of the Prevention of Food Adulteration Act. It has not been shown that the learned Additional Sessions Judge is wrong in his conclusion. If the statement of Shri Ganga Ram is believed, then whether or not the resolution has been properly attested, loses all importance. I accordingly consider it unnecessary to refer to the petitioner's contention that under a notification of 10-4-1958 the Municipal Secretary was to record and keep the minutes of the proceedings of the corporation etc., and have the custody of the papers and documents, connected with the proceedings of the Corporation etc. This notification, I may point out, was never produced as evidence in the case and proved.

(4) The next point argued is that the persons present at the time of taking the sample were not independent persons and, therefore, the proceedings are vitiated. For this submission, reliance is placed on Section 10(7) of the Prevention of Food Adulteration Act. This provision, before its amendment in 1964, was in the following terms:

'10. Powers of Food Inspectors-***** *****

(7) Where the Food inspector takes any section under Clause 9a) of Sub-section (1), Sub-section (2), Sub-section (4), or sub-section (6) he shall, as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures.

It is not denied that signatures of two persons as required by this section were obtained but the submission is that those persons could not be described, as independent persons. Reliance for the submission that they must be independent persons is placed on a bench decision of the Punjab High Court in State v Sadhu Singh, . The facts of the reported case were, however, materially different and the true ratio of that decision does not suggest that in the case in hand there is any such serious violation of Section 10(7) as to vitiate the proceedings. All that the reported decision lays down is that the persons present must not be under the influence of the Food Inspector. This aspect quite obviously falls for consideration

on the facts and circumstances of each individual case.

The object of enacting Section 10(7) is really to ensure that the particular sample is taken from the accused. I am disinclined, as at present advised, to hold that Section 10(7) must be construed to mean that persons when are called should never belong to the department meant for preventing food adulteration. On the facts and circumstances of the present case. I am nto persuaded to hold that section 10(7) has -been violated so as to vitiate the trial on the grounds urged.

(5) Delay in the test by the Public Analyst is the next point pressed. Here again, except for the bald assertion at the bar it is nto shown how this delay has prejudicially affect the trial. There is no evidence and nto even a suggestion that the oil in question could in the ordinary course, have deteriorated in qualify during the few days that elapsed between the taking of the sample and its examination by the public analyst'.

(6) Lastly, it is argued that the accused is only a manufacturer and nto a seller as he has no license to sell til oil and, thereforee, the conviction is bad on this score. I am unable to sustain this submission either. It is nto the case of accused that he manufactures the oil for his own consumption. It is conceded at the bar that he sells the oil manufactured but sends it out and does nto sell it at the store house. That is clearly immaterial under the law. If the adulterated oil is manufactured for sale the case is covered by Section 7 of the prevention of Food Adulteration Acct. The argument that the oil is nto intended to be sold as edible oil, appears tome to be an argument of desperation, as it was never suggested that the oil is manufactured for any toher purpose. There is no suggestion that til oil in question was stored for any toher purpose. Til oil is an article used as food for human consumption and is ordinarily used in the preparation of food and is accordingly prima facie food within the contemplation of the Prevention of Food Adulteration Act. This submission is thus also repelled.

(7) The offence is fully brought home to the accused and he has been rightly convicted. The revision is accordingly dismissed.

(8) Before concluding, I must observe that the learned Additional Sessions Judge was not fully justified in reducing the Sentence. The trial Court has already taken a very lenient view on account of the physical disability of the accused and had only imposed fine. Offences relating to food adulteration is being defined with impunity and this evil has assumed an alarming magnitude. The health of the entire nation, including children, women and old and infirm persons is exposed to grave danger and it is a matter of vital importance which should engage the attention of all those who are concerned with the enforcement of this law. On a number of occasions similar views have been expressed by the Punjab High Court both in Delhi and in Chandigarh against this evil. It is hoped that law relating to prevention of food adulteration would be enforced with appropriate stretches so as to make it effect i.e. and achieve the object of its enactment.

(9) One other aspect also deserves serious notice, Undue delay in the final disposal of cases relating to food adulteration renders the anti-adulteration laws ineffective and thereby tends to defeat the purpose for which such laws are made. This in the final analysis, has a tendency to give issue to feelings of dissatisfaction without governmental set up in the minds of the people in general, which after its continued existence, is calculated to give birth a sense of general frustration, even destroying the common man's faith in democracy itself. It is high time that proper attention is to this aspect, the importance of which is unfortunately ignored by the those responsible for administering the anti-adulteration of food laws of food laws. Not only must such cases be put in Courts with due diligence, but the Courts must also see that they are finally disposed of with due dispatch and promptitude

The case in hand, I regret to point out has not been dealt with as expeditiously as it should have been. There have been very long adjournments for reasons which could easily be avoided in the trial Court and also in the Court of Appeal though for obvious reasons they were not as frequent in the appeal Court Speedy administration of criminal justice, it may be borne in mind, is one of the indices by which the standard of a civilised democratic, society is measured. In the matter of laws relating to prevention of food adulteration, this aspect is of greater importance

GK/RKC/G.G.M.

(10) Petition dismissed.

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