

Vishnu Dutt Vs. State

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Court : Delhi

Decided On : Jan-13-1978

Reported in : 15(1979)DLT197

Judge : Yogeshwar Dayal, J.

Acts : Prevention of Food Adulteration Act, 1965 - Sections 16(1)

Appeal No. : Criminal Revision Appeal No. 310 of 1977

Appellant : Vishnu Dutt

Respondent : State

Advocate for Pet/Ap. : Ghanshyam Das,; K.K. Sharma and; B.T. Singh, Advs

Judgement :

Yogeshwar Dayal, J.

(1) This revision petition was admitted only on the question of sentence.

(2) The accused has a shop at No. 15, Swatantra Bharat Mills, Najafgarh Road, Delhi and sells sweet-meat and tea. On 28th November, 1975 a sample of milk was purchased from the servant of the accused out of the milk contained in a patila. The milk was found to be adulterated. The extent of adulteration was that the milk fat contained was 2.8. percent instead of 3.5. percent and nonfatty solids

were 8.04 percent instead of 8.30 percent.

(3) It is clear from the statement of the co-accused as well as of the petitioner that they do not deal with sale of the milk as such but the question arises : should they be given the benefit of proviso contained in section 16(1) of the prevention of Food Adulteration Act The proviso inter alia-contemplates that where there is an adulteration of standards then the court may for any adequate or special reasons impose sentence less than the minimum prescribed. The courts below have awarded the minimum prescribed, namely, six months imprisonment and Rs.1,000.00 fine. The special reason in this case to my mind is that the petitioner is a petty-shop-keeper who does not sell milk as such but sells tea. There is no evidence to show that there was any mechanism in his shop by which the fat contained could be extracted from the milk. The milk supplied to him may have been adulterated even by the milk supplier.

(4) The accused has already undergone 9 weeks sentence. In the circumstances the sentence of imprisonment is reduced to three months R.I. The sentence of fine, is however, maintained. - Sentence reduced.

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